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BALANCED BUDGET AMENDMENTS

HEARING

BEFORE THE

SUBCOMMITTEE ON THE CONSTITUTION

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

S.J. Res. 3, S.J. Res. 4, S.J. Res. 8, S.J. Res. 11, S.J. Res. 25, S.J. Res. 50, S.J. Res. 112, and S.J. Res. 161

JOINT RESOLUTIONS TO AMEND THE U.S. CONSTITUTION TO PROVIDE FOR A BALANCED BUDGET

MARCH 23, 1988

Serial No. J-100-59

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CONTENTS

STATEMENTS OF COMMITTEE MEMBERS

	Page
DeConcini, Hon. Dennis, a U.S. Senator from the State of Arizona	1
Simon, Hon. Paul, a U.S. Senator from the State of Illinois	4
Hatch, Hon. Orrin G., a U.S. Senator from the State of Utah	28

PROPOSED LEGISLATION

S.J. Res. 3, a joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget and tax limitation	6
S.J. Res. 4, a joint resolution proposing an amendment to the Constitution relating to Federal budget procedures	8
S.J. Res. 8, a joint resolution proposing an amendment to the Constitution altering Federal budget procedures	11
S.J. Res. 11, a joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget	14
S.J. Res. 25, a joint resolution proposing an amendment to the Constitution relating to Federal budget procedures	16
S.J. Res. 50, a joint resolution proposing an amendment to the Constitution of the United States to limit the expenditure of Government funds for any fiscal year to the projected revenue of the Government for that year and to limit the outstanding debt of the United States to thirty per centum of the projected gross national product	19
S.J. Res. 112, a joint resolution proposing an amendment to the Constitution of the United States which requires (except during time of war and subject to suspension by the Congress) that the total amount of money expended by the United States during any fiscal year not exceed the amount of certain revenue received by the United States during such fiscal year and not exceed 20 per centum of the gross national product of the United States during the previous calendar year	22
S.J. Res. 161, a joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation	25

CHRONOLOGICAL LIST OF WITNESSES

Thurmond, Hon. Strom, a U.S. Senator from the State of South Carolina	29
Exon, Hon. J. James, a U.S. Senator from the State of Nebraska	32
Panel consisting of Hon. John H. Sununu, Chairman, National Governors' Association; and William A. Niskanen, chairman, the Cato Institute	37
Panel consisting of Charles L. Schultze, director, Economic Studies Program, the Brookings Institution; and Roy L. Ash, former director, Office of Management and Budget	59
Humphrey, Hon. Gordon J., a U.S. Senator from the State of New Hampshire	90

ALPHABETICAL LIST AND MATERIAL SUBMITTED

Ash, Roy L.:	
Testimony	77
Prepared statement	79
Exon, Hon. J. James:	
Testimony	32
Prepared statement	35
Humphrey, Hon. Gordon J.: Prepared statement	90

	Page
Niskanen, William A.:	
Testimony	44
Prepared statement with appendix	47
Letter to Senator Paul Simon, April 4, 1988	52
Schultze, Charles L.:	
Testimony	59
Prepared statement	63
Sununu, Hon. John H.:	
Testimony	37
Prepared statement	39
Thurmond, Hon. Strom: Testimony	29

BALANCED BUDGET AMENDMENTS

WEDNESDAY, MARCH 23, 1988

U.S. SENATE,
SUBCOMMITTEE ON THE CONSTITUTION,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:36 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Dennis DeConcini presiding.

Also present: Senators Hatch, Specter, and Humphrey.

OPENING STATEMENT OF HON. DENNIS DeCONCINI, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator DECONCINI. We are going to commence the hearings of the Constitution Subcommittee of the Judiciary.

Good morning, ladies and gentlemen. Today, we consider constitutional amendments requiring a balanced Federal budget. I would first like to thank Senator Simon for his cooperation in scheduling this hearing. His staff has been excellent to work with and we appreciate it. I know he would have been here had he been able to attend.

The balanced budget issue has been in the headlines for quite some time, and support for the movement has continued to grow. A balanced budget amendment nearly passed in the last Congress and State legislatures have been on the verge of forcing the Federal Government's hand by calling a constitutional convention to consider a balanced budget amendment. In addition, there are presently seven resolutions in the Senate and nine resolutions in the House which call for balancing the budget.

The first panel today is made up of two of our distinguished colleagues and dear friends who are sponsors of balanced budget amendments. Senator Strom Thurmond has been leading this cause for over 30 years. Using his judgment and wisdom he saw before the crisis occurred that we needed a constitutional amendment to balance the budget. He has been a champion of the cause ever since. For the 12 years I have been here, he has been leading the fight for passage of this amendment.

Senator Thurmond, we welcome you here, and your leadership.

In addition to Senator Thurmond, we have Senator Exon, who is also going to testify on the first panel. As a member of the Budget Committee, Senator Exon has worked hard to combat the huge deficit problem.

Unlike some, Senator Exon is not afraid to make those hard decisions. As a former governor, Senator Exon has been directly re-

sponsible for planning and administering a budget. He is looked to for guidance on the balanced budget amendment area because of his expertise in the areas of budget reform and deficit reduction. I also thank him for being with us today.

During my 11 years in the Senate, I have continuously worked for the passage of a balanced budget amendment. In 1977, I cosponsored S.J. Res. 26. In 1979, I sponsored a constitutional amendment requiring an end to Federal deficit spending. In 1981, I cosponsored three balanced budget amendments, one of these passed the Senate and was referred to the House.

In 1983, 1985, and 1987, I again either joined as a cosponsor or introduced legislation calling for a balanced budget. The most recent of these is S.J. Res. 161, which was introduced last July. S.J. Res. 161 has 11 cosponsors in the Senate, and the companion bill in the House has 237 cosponsors.

The reasons favoring the balanced budget are very clear. The national debt is hovering at $2.5 trillion. In just 5 years, that debt increased from $1 trillion to over $2 trillion. We can see a $3 trillion deficit is not far away.

Unless we act, future generations will be forced to address a problem neglected by our generation. A slow but definite erosion of economic power is currently taking place in this Nation.

Under S.J. Res. 161, the President would be required to submit a balanced budget to Congress. Congress and the President would then be required to establish by joint resolution a single revenue estimate which total outlays for the year may not exceed, unless Congress so provides by roll call vote of three-fifths of the total membership of both Houses.

In the event that outlays exceed revenues for any given year, Congress is required by law to provide in the next succeeding year for the repayment of any actual deficit incurred. Furthermore, the public debt may not be increased unless approved by three-fifths vote of both Houses.

No bill to increase revenues can become law unless approved by a majority of the total membership of both Houses by roll call vote. However, in the event of war, the provisions of the amendment are waived.

The major distinguishing feature of this amendment from other legislation is section 2, which required repayment of outlays exceeding actual receipts. It is hoped that this section will help Congress keep a tighter hold on the Nation's purse strings.

As has so often been the case, I find myself aligned with both Senator Thurmond and Senator Hatch on this very important issue. I am a cosponsor of Senator Thurmond's S.J. Res. 11, as is Senator Simon. Also, Senator Hatch and I joined forces, along with Senator Proxmire and our House colleagues, over 200 of them, to introduce S.J. Res. 161.

With a bipartisan effort, I believe we can finally pass the balanced budget constitutional amendment. The people of this Nation have repeatedly indicated in polls time after time their desire to see that occur.

Now, I am going to ask my colleague from Utah to agree to let Senator Humphrey make a brief statement here.

Senator Hatch.

Senator DECONCINI. Due to his schedule, he has to go on and I yield to the Senator from New Hampshire.

Senator HUMPHREY. Thank you, Mr. Chairman. Thank you, Senator Hatch. Mr. Chairman, thank you for holding this hearing. It is a very important subject about which there is a great deal of talk but not a whole lot of action, so I am glad to see some effort to get some action underway today.

The States do not have the luxury that we have at the Federal level in financing huge deficits. Indeed, most States are required to balance their budget, and I am proud to say that my State has a record of fiscal responsibility.

I am proud that this morning the committee has chosen to call as a witness Governor John Sununu of the State of New Hampshire. We are very proud of our Governor, proud of the record that he has compiled during the last 6 years in managing the affairs of our State, proud also of his chairmanship of the National Governors' Conference and the leadership role that he plays in national affairs.

Frankly, we think he is going to be playing an even greater role in the future in conjunction with his close support and friendship for George Bush.

Having said all that, I regret I will not be here for his testimony because I myself am a witness this morning at the important hearings on Soviet defectors conducted by the Helsinki Commission which began at 9:30. So, I have to hustle right over to the House side, but I appreciate the chairman's courtesy in allowing me to go out of turn.

Thank you.

Senator DECONCINI. Thank you.

The record will permit, without objection, a statement from Senator Simon, since that he is the chairman of this subcommittee.

[The prepared statement of Senator Simon and the texts of S.J. Res. 3, S.J. Res. 4, S.J. Res. 8, S.J. Res. 11, S.J. Res. 25, S.J. Res. 50, S.J. Res. 112, and S.J. Res. 161 follow:]

STATEMENT OF SEN. PAUL SIMON

Chairman, Constitution Subcommittee

Hearing on Balanced Budget Amendments

March 23, 1988

I am pleased to convene the Constitution Subcommittee this morning to consider proposals to amend the U.S. Constitution to provide for a balanced budget. I would like to thank my good friend Sen. Dennis DeConcini for his assistance in chairing this hearing.

I believe in pay-as-you-go government, and I favor a balanced budget amendment. In the last Congress I was the author of the balanced budget amendment that came within one vote of a two-thirds majority in the Senate. If the President and the Congress are unwilling to address the growing crisis of the federal deficit, a balanced budget amendment may be the only alternative to economic ruin.

Whatever your philosophy or political party, our present fiscal course spells disaster. Under recent policies, interest on the national debt has risen to become the third-largest federal expenditure. That means that taxes paid by working people go to those wealthy enough to lend money to the government. Those taxes should be supporting

programs to put Americans to work, programs to lift the burden of long-term care, and to educate our children.

Amending the Constitution should never be taken lightly, and must be done with great care. I want an amendment that will balance the budget, but I also want an amendment that our children and grandchildren can live with.

On the table this morning are: S.J. Res. 3, introduced by Mr. Dole; S.J. Res. 4, introduced by Mr. Heflin; S.J. Res. 8, introduced by Mr. Heflin; S.J. Res. 11, introduced by Mr. Thurmond; S.J. Res. 25 introduced by Mr. Exon; S.J. Res. 50 introduced by Mr. Daschle; S.J. Res. 112, introduced by Mr. Shelby; and S.J. Res. 161, introduced by Mr. DeConcini. The Subcommittee will hear from these distinguished witnesses: Senators Thurmond and Exon; Governor John H. Sununu, Chairman of the National Governors' Association; William A. Niskanen, Chairman, Cato Institute; Charles L. Schultze, Program Director for Economic Studies, The Brookings Institution; and Roy L. Ash, former Director, Office of Management and Budget.

I hope that the best possible proposal emerges from this process.

II

100TH CONGRESS
1ST SESSION

S. J. RES. 3

Proposing an amendment to the Constitution relating to a Federal balanced budget and tax limitation.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1987

Mr. DOLE introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

---

JOINT RESOLUTION

Proposing an amendment to the Constitution relating to a Federal balanced budget and tax limitation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement for that year in which total outlays are not greater than total receipts. The Congress may amend such statement provided amended outlays are not greater than amended receipts. With the approval of three-fifths of the whole number of both Houses, the Congress, in such statement, may provide for a specific excess of outlays over receipts. Actual outlays shall not exceed the outlays set forth in such statement.

"SECTION 2. Total receipts in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the previous year, unless a majority of the whole number of both Houses shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SECTION 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SECTION 4. This article shall take effect for the second fiscal year beginning after its ratification.".

○

II

100TH CONGRESS
1ST SESSION

S. J. RES. 4

Proposing an amendment to the Constitution relating to Federal budget procedures.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1987

Mr. GRAMM introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

---

JOINT RESOLUTION

Proposing an amendment to the Constitution relating to Federal budget procedures.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may amend such statement provided revised outlays are not greater than revised receipts. Congress may provide in such statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to the first section of this article shall not increase by a rate greater than the rate of increase in national income in the year of years ending not less than six months before such fiscal year, unless a majority of the whole number of each House of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SECTION 3. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this article.

"SECTION 4. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SECTION 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal.

"SECTION 6. The amount of Federal public debt as of the first day of the second fiscal year beginning after the ratification of this article shall become a permanent limit on such debt and there shall be no increase in such amount unless three-fifths of the whole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 7. The Congress shall enforce and implement this article by appropriate legislation.

"SECTION 8. This article shall take effect for the fiscal year 1991 or for the second fiscal year beginning after its ratification.".

○

II

100TH CONGRESS
1ST SESSION

S. J. RES. 8

Proposing an amendment to the Constitution altering Federal budget procedures.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1987

Mr. HEFLIN introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

---

JOINT RESOLUTION

Proposing an amendment to the Constitution altering Federal budget procedures.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year

in which total outlays are not greater than total receipts. The Congress may amend such statement provided revised outlays are not greater than revised receipts. Whenever three-fifths of the whole number of each House of the Congress shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. The public debt of the United States shall not be increased to fund any excess of outlays over receipts for any fiscal year, unless three-fifths of the whole number of each House of Congress shall provide, by law, for such an increase.

"SECTION 3. Any bill to increase revenue shall become law only if approved by a majority of the whole number of each House of Congress by rollcall vote.

"SECTION 4. Prior to each fiscal year, the President shall submit a proposed budget to Congress for that fiscal year in which total outlays are no greater than total receipts. The President may also recommend an alternative budget in which total outlays exceed total receipts, which shall be accompanied by a detailed explanation of the need for such excess."

"SECTION 5. The provisions of this article are automatically waived for any fiscal year in which a declaration of war is in effect.

"The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House of Congress, which becomes law. Afterwards any waiver adopted shall be by a joint resolution of like requirements.

"SECTION 6. This article shall take effect for the fiscal year 1991 or for the second fiscal year beginning after its ratification, whichever is later.".

○

II

100TH CONGRESS
1ST SESSION

S. J. RES. 11

Proposing an amendment to the Constitution relating to a Federal balanced budget.

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1987

Mr. THURMOND (for himself, Mr. HATCH, Mr. SIMON, Mr. SIMPSON, Mr. GRASSLEY, Mr. JOHNSTON, Mr. SPECTER, Mr. MCCONNELL, Mr. HUMPHREY, Mr. GRAMM, Mr. D'AMATO, Mr. COCHRAN, Mr. LUGAR, Mr. KASTEN, Mr. QUAYLE, Mr. HELMS, Mr. ZORINSKY, Mr. NICKLES, and Mr. BOREN) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

---

JOINT RESOLUTION

Proposing an amendment to the Constitution relating to a Federal balanced budget.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Outlays of the United States for any fiscal year shall not exceed receipts to the United States for that year, unless three-fifths of the whole number of both Houses of Congress shall provide for a specific excess of outlays over receipts.

"SECTION 2. Any bill to increase revenue shall become law only if approved by a majority of the whole number of both Houses of Congress by rollcall vote.

"SECTION 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SECTION 4. This article shall take effect in fiscal year 1991 or for the second fiscal year beginning after its ratification whichever is later.".

○

II

100TH CONGRESS
1ST SESSION

S. J. RES. 25

Proposing an amendment to the Constitution relating to Federal budget procedures.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 20), 1987

Mr. EXON introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

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JOINT RESOLUTION

Proposing an amendment to the Constitution relating to Federal budget procedures.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE—

"SECTION 1. Prior to each fiscal year, the President shall submit to the Congress a proposed statement of revenues and appropriations for the coming fiscal year and shall recommend to the consideration of Congress such measures as the President shall judge necessary to assure that appropriations do not exceed revenues for that fiscal year.

"SECTION 2. Prior to each fiscal year, the Congress shall approve a proposed statement of revenues and appropriations for the coming fiscal year and shall adopt measures necessary to assure that appropriations do not exceed revenues for that fiscal year.

"SECTION 3. No bill which causes appropriations to exceed revenues for a fiscal year shall become law unless passed by two-thirds of the Senate and House of Representatives.

"SECTION 4. The Congress may waive the provisions of this Article for any fiscal year in which a declaration of national emergency is in effect.

"SECTION 5. The Congress shall have the power to enforce this Article by appropriate legislation.

"SECTION 6. This Article shall become effective beginning with the later of—

"(1) the second fiscal year to begin after its ratification, or

"(2) fiscal year 1992.".

○

II

100TH CONGRESS
1ST SESSION

S. J. RES. 50

Proposing an amendment to the Constitution of the United States to limit the expenditure of Government funds for any fiscal year to the projected revenue of the Government for that year and to limit the outstanding debt of the United States to thirty per centum of the projected gross national product.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 1987

Mr. DASCHLE introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

---

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States to limit the expenditure of Government funds for any fiscal year to the projected revenue of the Government for that year and to limit the outstanding debt of the United States to thirty per centum of the projected gross national product.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the

legislatures of three-quarters of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The total expenditure of Government funds during any fiscal year shall not exceed the total revenue of the Government as projected by the Congress for that year.

"SECTION 2. The provisions of section 1 or 4, or both, shall not apply with respect to any fiscal year during any part of which the United States is in a state of war declared by the Congress pursuant to section 8 of article I of the Constitution or any fiscal year during which the Congress, by a vote of two-thirds of each House, adopts a joint resolution stating that a national emergency requires the suspension of the application of that section or sections. This joint resolution shall not be effective unless approved by the President.

"SECTION 3. The provisions of section 1 shall not apply with respect to any fiscal year for which the Congress projects that the real growth rate of the economy will be less than three per centum.

"SECTION 4. If the total expenditure of Government funds during any fiscal yer exceeds the total revenue of the Government for that year because of section 3, the resulting deficit shall be extinguished by the end of the fifth fiscal year after the fiscal year in which that deficit occurs.

"SECTION 5. If the total revenue of the Government during any fiscal year exceeds the total expenditure of Government funds for that year, the resulting surplus shall be deemed revenue of the Government for the following fiscal year for purposes of this article.

"SECTION 6. As used in this article, expenditure of Government funds shall not include any expenditure for the redemption of bonds, notes, or other similar obligations of the Government, and revenue of the Government shall not include any revenue derived from the issuance of bonds, notes, or other similiar obligations of the Government.

"SECTION 7. The Congress shall have power to enforce this article by appropriate legislation.

"Section 8. This article shall take effect on the first day of the third fiscal year beginning after the date of the ratification of this article.".

○

II

100TH CONGRESS
1ST SESSION

S. J. RES. 112

Proposing an amendment to the Constitution of the United States which requires (except during time of war and subject to suspension by the Congress) that the total amount of money expended by the United States during any fiscal year not exceed the amount of certain revenue received by the United States during such fiscal year and not exceed 20 per centum of the gross national product of the United States during the previous calendar year.

IN THE SENATE OF THE UNITED STATES

APRIL 9 (legislative day, MARCH 30), 1987

Mr. SHELBY introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

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JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States which requires (except during time of war and subject to suspension by the Congress) that the total amount of money expended by the United States during any fiscal year not exceed the amount of certain revenue received by the United States during such fiscal year and not exceed 20 per centum of the gross national product of the United States during the previous calendar year.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitu-

tion of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years of the date of final passage of this joint resolution:

"ARTICLE —

"SECTION 1. The total amount of money expended by the United States in any fiscal year of the Treasury of the United States (or other similar period of time designated by the Congress for purposes of accounts, receipts, expenditures, estimates, and appropriations) shall not exceed the total amount of revenue received by the United States during such fiscal year, except revenue received from the issuance of bonds, notes, or other obligations of the United States.

"SECTION 2. The total amount of money expended by the United States in any fiscal year of the Treasury of the United States (or other similar period of time designated by the Congress for purposes of accounts, receipts, expenditures, estimates, and appropriations) shall not exceed the amount equal to 20 per centum of the gross national product of the United States during the last calendar year ending before the beginning of such fiscal year.

"SECTION 3. Sections 1 and 2 of this Article shall not apply during any fiscal year of the Treasury of the United States (or other similar period) during any part of which the

United States is at war as declared by the Congress under section 8 of Article I of the Constitution.

"SECTION 4. Sections 1 and 2 of this Article may be suspended by a concurrent resolution approved by a vote of a majority of the Members of each House of the Congress. Any suspension of sections 1 and 2 of this Article under this section shall be effective only during the fiscal year of the Treasury of the United States (or other similar period) during which such suspension is approved.

"SECTION 5. This Article shall take effect on the first day of the first fiscal year of the Treasury of the United States (or similar period) beginning after the date of the adoption of this Article.

"SECTION 6. The Congress shall have power to enforce this Article by appropriate legislation.".

○

II

100TH CONGRESS
1ST SESSION

S. J. RES. 161

Proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 1987

Mr. DECONCINI (for himself, Mr. HATCH, and Mr. PROXMIRE) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

---

JOINT RESOLUTION

Proposing an amendment to the Constitution to provide for a balanced budget for the United States Government and for greater accountability in the enactment of tax legislation.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the Congress and the President shall agree on an estimate of total receipts for that fiscal year by enactment into law of a joint resolution devoted solely to that subject. Total outlays for that year shall not exceed the level of estimated receipts set forth in such joint resolution, unless three-fifths of the total membership of each House of Congress shall provide, by a rollcall vote, for a specific excess of outlays over estimated receipts.

"SECTION 2. Whenever actual outlays exceed actual receipts for any fiscal year, the Congress shall, in the ensuing fiscal year, provide by law for the repayment of such excess. The public debt of the United States shall not be increased unless three-fifths of the total membership of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the total membership of each House by a rollcall vote.

"SECTION 5. The provisions of this article are waived for any fiscal year in which a declaration of war is in effect.

"SECTION 6. Total receipts shall include all receipts of the United States except those derived from borrowing. Total outlays shall include all outlays of the United States except for those for repayment of debt principal.

"SECTION 7. This article shall take effect beginning with fiscal year 1991 or with the second fiscal year beginning after its ratification, whichever is later.".

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Senator DECONCINI. I yield to the Senator from Utah.

STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

Senator HATCH. Thank you, Senator DeConcini. I just want to thank you for the leadership that you have provided in this matter through all these years and, of course, our dear friend, Senator Thurmond. If anybody deserves credit for the balanced budget amendment, certainly he deserves to be at the forefront of those receiving credit. I just hope that some day we can pass it.

Some time in the future, this event may well be remembered as the historic inauguration of the process that produced the 27th amendment to the Constitution. At this time when we are celebrating our Constitution's bicentennial, it is particularly fitting, I think, to accomplish or complete the work begun 200 years ago.

A balanced budget is, in reality, an unwritten portion of our Constitution. For over 150 years, beginning with President Washington's administration, our Nation observed the balanced budget norm. Even when war necessitated deficits, we immediately strove to repay our debts.

Unfortunately, an institutional bias in our budgetary process has disrupted what really has been a very sensible policy. For 27 of the last 29, and for 50 of the last 58 years, our budget has been in the red. A constitutional amendment will correct that institutional bias by linking spending decisions to taxing decisions and by requiring Congress to vote clearly on the record when it does authorize a deficit.

At the outset of this hearing, I would particularly like to note the impressive number of sponsors of an amendment. Over 52 percent of the House has endorsed the amendment proposed by Chairman DeConcini and myself, and that is an excellent beginning.

In 1982 when the Senate approved a balanced budget amendment, no single amendment proposal had had that many cosponsors in the House. The proposed amendment at that time failed to get the necessary two-thirds majority in the House that year, but only by a narrow margin.

With this better beginning, we may well succeed in submitting a 27th amendment to the States for ratification. In that event, I think that the amendment would be ratified because 32 States have already petitioned Congress to convene a constitutional convention on the balanced budget subject.

I can think of no better bicentennial present that the American people could have than to give this particular amendment to the American people.

Now, let me just say that we have a distinguished list of people to testify today, and certainly Senator Thurmond and Senator Exon deserve a lot of credit for their willingness to be part of this balanced budget amendment process.

In the case of Senator Thurmond, he has fought for a balanced budget amendment longer than any Senator in history, and I would like to see it enacted if for no other reason than so he can accomplish that really great dream of his.

I certainly want to welcome you, Governor Sununu, representing the National Governors' Association. Bill Niskanen, I have a great deal of respect for him. Of course, it is good to see our old friend, Charlie Schultze, here. Even though he probably disagrees with us, there is no question that his viewpoint deserves a great deal of consideration. And we have another dear friend, Roy Ash, who has been leading a real fight to try and get us to live within our means.

So, we appreciate having all of you here and we hope that the proceeding will produce some enlightenment that might help us move a little bit further than we have thus far.

Again, I want to thank the distinguished acting chairman of this subcommittee at this time and, I might add, Senator Simon as well. It was not easy for Senator Simon to support the balanced budget amendment, while it has been pretty easy for Senator DeConcini and myself.

But without Senator DeConcini's leadership, I have to mention, in the last number of Congresses as well, this would never have gone as far as it did, and I am counting on that leadership to help us to get it through in the next year, if we can. I know that he will do everything he possibly can to do it. I have inestimable respect for you, Dennis, and for the work that you have done.

With that, I just welcome everybody and hope we have a good hearing.

Senator DECONCINI. Thank you, Senator Hatch, very much for the kind words and your tremendous persistence on this issue. I share some of the frustration that Senator Thurmond has had in the 11 years that we have been here pushing this effort.

Senator Thurmond, we welcome you as the dean of the Judiciary Committee, past chairman of the committee, past President pro tem. You have done everything in your life that any person could ever want to achieve, except pass and get enacted a constitutional amendment to balance the budget.

The only question I have is why can we not do that, Senator Thurmond? You are a great leader and I really, in all seriousness, applaud this constant work that you have done in this effort. We look forward to your testimony here today, and also your participation on the Judiciary Committee to see that we can run this bill out of the committee onto the floor, and I welcome you here.

STATEMENT OF HON. STROM THURMOND, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator THURMOND. Thank you very much. In the beginning, I would like to commend our chairman today, Senator DeConcini, for the outstanding leadership that you have shown in connection with a constitutional amendment to balance the budget.

No one has worked harder in the last 11 years than Senator DeConcini. He has shown consistency, he has shown dedication, and he has shown a true advocacy for this important piece of legislation. I truly appreciate, Senator DeConcini, your magnificent work and your leadership on this particular matter. It has been a pleasure to work with you in the Senate generally and I have great admiration for you.

21-280 - 89 - 2

I want to commend Senator Hatch, too, for the great work he has done in connection with the balanced budget amendment. He has worked very closely with me for a number of years on this and he is to be highly commended.

I wish to commend Senator Simon, too, who cannot be here today, for joining on this amendment. I know there was great pressure brought on him not to do so. We appreciate the stand he has taken, and he has shown courage in this.

I am glad to be here this morning with my good friend, Senator Exon. He is chairman of a subcommittee now in the Armed Services Committee on which I am the ranking member and we work together on many matters for the good of our country. He is a great statesman and an outstanding Senator and I am pleased to see him here this morning.

Now, Mr. Chairman, I am pleased to have this opportunity to testify today as we continue efforts to amend the Constitution to require the Federal Government to achieve and maintain a balanced budget.

Last year, I introduced S.J. Res. 11 to amend the Constitution and require a Federal balanced budget. This legislation is essentially similar to an earlier bill which in March 1986 received 66 of the 67 votes needed for Senate approval, only one short.

Simply stated, this legislation calls for a constitutional amendment which requires that outlays not exceed receipts during any fiscal year. Also, the Congress would be allowed by three-fifths vote to adopt a specific level of deficit spending. Further, the Congress could waive the amendment during the time of war. The amendment would additionally require that any bill to increase revenues be approved by a majority of the whole number of both Houses.

Our Constitution has been amended only 26 times in almost 200 years. Amendment of our supreme law is a serious endeavor and should be reserved to protect the fundamental rights of our citizens or to ensure the survival or effectiveness of our system of government.

Mr. Chairman, I believe that the effectiveness, indeed the very survival of our system of government, has become jeopardized by an irrational and irresponsible pattern that has developed and become entrenched in Federal fiscal policy over the last half century. Because of this fiscal policy, those liberties and opportunities of our present and future citizens which we have come to regard as sacred are seriously threatened.

Mr. Chairman, there are no fewer than 15 proposals currently pending before the Senate and House dealing with this vitally important issue. The involvement and interest of our colleagues with regard to a balanced budget amendment speaks volumes as to the necessity of addressing our Nation's runaway fiscal policy.

For many years, I have believed, as have many other Members of Congress, that the way to reverse this misguided fiscal direction of the Federal Government is by amending the Constitution to mandate—and I repeat, to mandate—except in extraordinary circumstances, balanced Federal budgets. An addition to our Constitution which establishes balanced budgets as a fiscal norm rather than a fiscal abnormality is needed today.

In the past, we have been told by the opponents of the balanced budget constitutional amendment that self-imposed congressional restraint is what is needed to solve our fiscal woes, not a constitutional amendment.

The fact is, however, that in the face of frightening deficits, Congress has not proven that it is capable of such restraint. Congress has balanced the Federal budget only once—I repeat, only once—in the last 27 years.

The level of annual budget deficits has grown enormously over this period of time. Since 1970, the United States has incurred the largest peace time deficits in the history of the Nation.

Continued deficit spending by the Federal Government will undoubtedly head the Nation into new periods of economic stagnation and decline. The tax burdens which today's deficits will place on future generations of American workers are staggering. We must reverse the fiscal course of the Federal Government, and I believe that a constitutional amendment is the best way to do it.

I want to say this, too, that I really think each generation ought to pay its own way through this world. It is not fair to our children and our grandchildren and generations to come for us to spend, spend, spend and place this debt on their backs.

Mr. Chairman, the balanced budget amendment proposal has the support of many of our colleagues in the Congress, a Congress which holds widely varying political views. Its supporters share an unyielding commitment to restoring sanity to a spending process which is out of control and hurling our Nation headlong toward disaster.

I am pleased to be here to testify today and I commend the members of this subcommittee for their continuing interest on this important matter. Hopefully, the 100th Congress will be successful in fulfilling our responsibility to restore fiscal sanity where there is now virtually unchecked deficit spending.

I think this is the year to do it. Two hundred years ago, our Constitution was ratified. The Constitutional Convention met in 1787 and adopted the Constitution, but two-thirds of the States necessary to ratify, and this occurred in 1788, 200 years ago. It would be very fitting if we passed this amendment during this year of our commemoration of that original adoption and approval of the Constitution.

Again, I want to thank you, Mr. Chairman, for your great work, and thank Senator Hatch for the great work he has done on this amendment. No two people have worked harder than you and Senator Hatch on this important matter and I wish to express my deep gratitude to you both.

Senator DECONCINI. Senator Thurmond, thank you for your time, and I know you have other committees that you have to go to, and duties, so we will understand if you have to leave. We appreciate your leadership and suggestions and the constant work and compromise in this area.

Senator Exon, the same goes for you. I know your time is short and you have been a real help to the Judiciary Committee on the floor of the Senate as we did pass this in 1982, and I look forward to your testimony now, Senator.

Senator HATCH. Would you hold just for a second, Senator Exon?

I would like to also thank our former chairman and our ranking member for his kind comments toward me. I just really appreciate them. Coming from a man that I have so much respect for, it just means a lot to both, I am sure, Senator DeConcini and me, and we just really appreciate you and the leadership you provide, and the friendship that you give both of us. It is a wonderful thing.

Senator DECONCINI. Senator Exon.

STATEMENT OF HON. J. JAMES EXON, A U.S. SENATOR FROM THE STATE OF NEBRASKA

Senator EXON. Senator DeConcini, Senator Hatch, thank you for your opening remarks and your kind statements for what help I have been to you since I have been here on this effort.

Before my friend and colleague leaves here, I wanted to add my words of accolation to the great service that he has performed as the governor of his State and his many years here. He is the ranking Republican on the Strategic Subcommittee that I have the pleasure of chairing. There is no one that I work closer with or have more cooperation from than Senator Thurmond.

He also could have been Chairman of the Armed Services Committee at one time had he not had other important obligations. So, I just want to salute him as a great American, and I am pleased to work with you and him on this matter before us that he has just addressed.

Before he leaves, I just want to say that I have never known anything that this gentleman has ever done that I was not very proud of, with the possible exception of his leaving the Democratic Party for something else.

Senator THURMOND. Thank you very much for those kind remarks.

Senator DECONCINI. Thank you, Senator.

Senator EXON. Mr. Chairman, thank you for your kind invitation, for being here this morning and the nice comments about the contribution that I have made in this effort, which has not been as great as yours and Senator Hatch's and Senator Thurmond's. But I have not been here as long as each of you and before I leave the United States Senate voluntarily or otherwise, I hope that we can see a constitutional amendment passed, one of the many that is before us.

I am delighted that one of the joint resolutions under review today is S.J. Res. 25, the proposed constitutional amendment which I authored to require that the President submit and Congress enact a balanced Federal budget.

There could be no more pressing economic problem facing the Nation than the Federal budget deficit. From our Nation's reckless fiscal policy spring many of our current and future economic maladies.

It is frightening to consider that in 7 short years, the accumulated national debt has more than doubled to over $2.4 trillion today. The nonpartisan Congressional Budget Office has estimated that even if every provision of the President's 1989 budget were enacted, the deficit for that year would exceed $160 billion, well above the $144 billion target set by the ill-fated Gramm-Rudman law.

I want to add in that regard, Mr. Chairman, that so many times we deal with political figures and even that $160 billion that I just referred to would be much higher, indeed, if we did not continue to use offsets for trust funds such as the Social Security Trust Fund, the Aviation Trust Funds and others that are continuously used to mask and cover up the real annual deficit and national debt of the United States.

As Governor of Nebraska, I presided over eight balanced budgets. The constitution of the State of Nebraska required as much. I found the balanced budget and the line item veto provisions of the Nebraska constitution to be very useful tools which I often used to control what I thought was unnecessary spending of Nebraska resources.

In recent years, as a member of the Senate Budget Committee, I have observed with alarm the willingness of the President and the Congress to repeatedly delay dealing with the Federal budget deficit. Clearly, the time for manageable change is right now.

If the Congress and the President delay much longer, our Nation's economic future could be dismal for years and generations to come. In most instances when I speak here, I am not zeroing in on any specific Congress or any specific President.

Past, present, and future Presidents and Congresses are all involved and they have all played or will play a key role in fiscal responsibility or lack thereof. Already, the United States is the world's largest debtor nation. Interest on the national debt currently consumes the first 14 cents of every tax dollar and the trade deficit continues to be excessive in spite of the lower dollar value.

I would certainly suggest to you, Chairman DeConcini, that a well-crafted constitutional amendment can force the Congress and the President to make the hard choices necessary to execute a responsible fiscal policy rather than to choose to push the problem to a future Congress or a future administration.

My experience as Governor of Nebraska has led me to conclude that a constitutional requirement for a balanced budget can be a catalyst to realistic compromise and accommodation.

I ask that the balance of my statement be included in the record, in the interest of saving time, Mr. Chairman, and just let me conclude by urging you and your subcommittee to act swiftly on this proposal and get it to the Congress once again for a vote.

I just want to say that while there are many arguments that are made against a balanced budget constitutional amendment, if we are concerned about fiscal policy and responsibility, let us take a page out of the book that I found as Governor of Nebraska.

I found that if the governor and the legislature, working in concert to arrange the spending of State funds for proper purposes—the greatest deterrent to over-spending and the greatest deterrent to not being fiscally responsible was the fact that always hanging over our heads was that constitutional amendment for a balanced budget in the State of Nebraska.

Putting that in the simplest of terms, it came down to a situation that if we, the legislature and the governor, through the process of authorizations, appropriations, vetoes, overrides of vetoes—when we got through at the end of the year—we had the responsibility to say, well, the process produced this much spending. Now, if the

process produced that much spending, then we had the simultaneous requirement to raise the taxes to pay for that spending.

Above everything else, I think that that will bring the discipline that obviously has been lacking in the Federal Government, and I think we have had adequate proof that such discipline is necessary or we are never going to solve the problem.

Mr. Chairman, Senator Hatch, thank you very much.

Senator DECONCINI. Senator Exon, thank you, and we appreciate your taking the time here and we look forward to working with you as we move this legislation through the committee and on to the floor of the Senate.

Senator EXON. Thank you very much.

Senator HATCH. Thank you, Senator.

[The prepared statement of Senator Exon follows:]

A CONSTITUTIONAL AMENDMENT TO
REQUIRE A BALANCED FEDERAL BUDGET
BY U.S. SENATOR J. JAMES EXON (D-NEBR)
BEFORE THE SENATE SUBCOMMITTEE
ON THE CONSTITUTION
MARCH 23, 1988

MR. CHAIRMAN, THANK YOU FOR YOUR KIND INVITATION TO TESTIFY BEFORE YOUR COMMITTEE. I AM DELIGHTED THAT ONE OF THE JOINT RESOLUTIONS UNDER REVIEW TODAY IS S. J. RES. 25, THE PROPOSED CONSTITUTIONAL AMENDMENT WHICH I AUTHORED TO REQUIRE THAT THE PRESIDENT SUBMIT AND CONGRESS ENACT A BALANCED FEDERAL BUDGET.

THERE CAN BE NO MORE PRESSING ECONOMIC PROBLEM FACING THE NATION THAN THE FEDERAL BUDGET. FROM OUR NATION'S RECKLESS FISCAL POLICY SPRINGS MANY OF OUR CURRENT AND FUTURE ECONOMIC MALADIES. IT IS FRIGHTENING TO CONSIDER THAT IN SEVEN SHORT YEARS, THE ACCUMULATED NATIONAL DEBT HAS MORE THAN DOUBLED TO OVER $2.4 TRILLION.

THE NONPARTISAN CONGRESSIONAL BUDGET OFFICE HAS ESTIMATED THAT EVEN IF EVERY PROVISION OF THE PRESIDENT'S FY 1989 BUDGET WERE ENACTED, THE DEFICIT FOR THAT YEAR WOULD EXCEED $160 BILLION, WELL ABOVE THE $144 BILLION TARGET SET BY THE ILL-FATED GRAMM-RUDMAN LAW.

AS GOVERNOR OF THE STATE OF NEBRASKA, I PRESIDED OVER EIGHT BALANCED BUDGETS. THE CONSTITUTION OF THE STATE OF NEBRASKA REQUIRED AS MUCH. I FOUND THE BALANCED BUDGET AND LINE ITEM VETO PROVISIONS OF THE NEBRASKA CONSTITUTION TO BE VERY USEFUL TOOLS WHICH I OFTEN USED TO CONTROL THE WASTEFUL SPENDING OF THE NEBRASKA STATE LEGISLATURE.

IN RECENT YEARS, AS A MEMBER OF THE SENATE BUDGET COMMITTEE, I HAVE OBSERVED WITH ALARM THE WILLINGNESS OF THE PRESIDENT AND THE CONGRESS TO REPEATEDLY DELAY DEALING WITH THE FEDERAL BUDGET DEFICIT. CLEARLY, THE TIME FOR MANAGEABLE CHANGE IS NOW. IF THE CONGRESS AND THE PRESIDENT DELAY MUCH LONGER, OUR NATION'S ECONOMIC FUTURE COULD BE DISMAL FOR MANY YEARS TO COME.

ALREADY THE UNITED STATES IS THE WORLD'S LARGEST DEBTOR NATION; INTEREST ON THE NATIONAL DEBT CURRENTLY CONSUMES THE FIRST FOURTEEN CENTS OF EVERY TAX DOLLAR AND THE TRADE DEFICIT CONTINUES TO BE EXCESSIVE IN SPITE OF A LOWER VALUED DOLLAR.

A WELL-CRAFTED CONSTITUTIONAL AMENDMENT CAN FORCE THE CONGRESS AND THE PRESIDENT TO MAKE THE HARD CHOICES NECESSARY TO EXECUTE A RESPONSIBLE FISCAL POLICY RATHER THAN TO CHOOSE TO CONTINUOUSLY PUSH THE PROBLEM TO A FUTURE CONGRESS OR A FUTURE ADMINISTRATION. MY EXPERIENCE AS GOVERNOR OF NEBRASKA HAS LED ME TO CONCLUDE THAT A CONSTITUTIONAL REQUIREMENT FOR A BALANCED BUDGET CAN BE A CATALYST TO REALISTIC COMPROMISE AND ACCOMMODATION.

IN THE UNITED STATES SENATE, I HAVE LONG ADVOCATED THE PASSAGE OF A CONSTITUTIONAL AMENDMENT TO REQUIRE A BALANCED FEDERAL BUDGET. I WAS PLEASED TO WORK WITH MEMBERS OF THIS COMMITTEE ON THE FLOOR OF THE SENATE IN THE LAST CONGRESS TO ATTEMPT TO PASS SUCH A CONSTITUTIONAL AMENDMENT.

IN 1987, I SUBMITTED MY OWN PROPOSAL FOR CONSIDERATION. THAT PROPOSAL PROVIDES THAT THE PRESIDENT SHALL SUBMIT TO THE CONGRESS A PROPOSED STATEMENT OF REVENUES AND APPROPRIATIONS AND RECOMMEND MEASURES NECESSARY TO ASSURE THAT APPROPRIATIONS DO NOT EXCEED RECEIPTS FOR THAT FISCAL YEAR. THE CONGRESS IN TURN IS DIRECTED TO APPROVE A STATEMENT OF REVENUES AND APPROPRIATIONS AND ADOPT MEASURES WHICH ARE NECESSARY TO ASSURE THAT APPROPRIATIONS DO NOT EXCEED REVENUES.

THE AMENDMENT ALSO CONTAINS A NATIONAL EMERGENCY EXCEPTION AND A PROVISION TO TAKE EFFECT THE SECOND FISCAL YEAR AFTER ITS RATIFICATION.

IN DRAFTING THIS PROPOSED CONSTITUTIONAL AMENDMENT, I CHOOSE THE TERMS REVENUES AND APPROPRIATIONS OVER RECEIPTS AND OUTLAYS BECAUSE THESE TERMS ARE WELL KNOWN TERMS OF ART AND CONSISTENT WITH EXISTING LANGUAGE IN THE CONSTITUTION.

PRESIDENTIAL PARTICIPATION IN THE EFFORT TO BALANCE THE FEDERAL BUDGET IS ABSOLUTELY ESSENTIAL TO THE SUCCESS OF A CONSTITUTIONAL REQUIREMENT FOR A BALANCED BUDGET. MOST AMERICANS DO NOT REALIZE THAT PRESIDENT REAGAN HAS NOT YET SUBMITTED A BALANCED FEDERAL BUDGET AND, ALTHOUGH THE CONGRESS HAS SPENT LESS IN TOTAL DOLLARS THAN REQUESTED BY THE PRESIDENT, THERE HAS BEEN LITTLE SUCCESSFUL LEGAL OR POLITICAL MOTIVATION TO REDUCE THE DEFICIT.

EXISTING LAWS TO DEAL WITH THE DEFICIT HAVE PROVEN TO BE UNWORKABLE OR EASY TO EVADE. I HAVE BEEN AN OPPONENT TO THE GRAMM-RUDMAN LAW, IN PART BECAUSE IT ACTUALLY ENCOURAGES THE PRESIDENT AND THE CONGRESS TO DELAY SERIOUS ACTION ON THE DEFICIT. THE GRAMM-RUDMAN LAW DOES NOT WORK TO REDUCE DEFICITS, IT WORKS TO REDUCE DEFICIT PROJECTIONS. DURING THE GRAMM-RUDMAN LAW'S FIRST YEAR OF OPERATION, THE ANNUAL DEFICIT SET A NEW RECORD AND EXCEEDED $220 BILLION.

THE SENATE BUDGET COMMITTEE IS NOW CONSIDERING THE BUDGET FOR FY 1989. THE THRUST OF THE REAGAN ADMINISTRATION'S PRESENTATIONS HAD NOT BEEN TOWARD REDUCING THE DEFICIT ON A YEAR TO YEAR BASIS, OR EVEN TO COMPLY WITH THE GRAMM-RUDMAN LAW, BUT SIMPLY TO COMPLY WITH THE POST-CRASH AGREEMENT WITH THE CONGRESSIONAL LEADERSHIP. THIS ATTITUDE ALLOWS ALL PARTIES TO SLIDE THROUGH THE NEXT ELECTION GIVING ONLY THE IMPRESSION OF ACTING ON THE DEFICIT.

IN CONCLUSION, MR. CHAIRMAN, UNTIL THERE IS A FIRM REQUIREMENT TO KEEP THE FEDERAL GOVERNMENT ON A RESPONSIBLE FISCAL PLAN, DEFICITS WILL PLAGUE OUR NATION FOR YEARS TO COME. A CONSTITUTIONAL AMENDMENT WILL INSERT A DEGREE OF REALISM AND COMMON PURPOSE INTO OUR BUDGET CONSIDERATIONS. I ASK THAT THE COMMITTEE TAKE A CAREFUL LOOK AT MY PROPOSAL AND I VOLUNTEER MY ASSISTANCE TO ENACT A CONSTITUTIONAL AMENDMENT TO REQUIRE A BALANCED FEDERAL BUDGET.

Senator DECONCINI. Our first panel will be Governor John Sununu, of the National Governors' Association, and William Niskanen, Chairman of the Cato Institute. Gentlemen, thank you very much. We will put your full statements in the record. I have had a chance to look at them. We appreciate the thoroughness with which you have addressed this subject for us, and if you would summarize your statements, I do have some questions for you.

Governor.

STATEMENT OF A PANEL CONSISTING OF HON. JOHN H. SUNUNU, CHAIRMAN, NATIONAL GOVERNORS' ASSOCIATION; AND WILLIAM A. NISKANEN, CHAIRMAN, THE CATO INSTITUTE

STATEMENT OF GOV. JOHN H. SUNUNU

Governor SUNUNU. Thank you very much, Senator. I appreciate the chance to come before you and your subcommittee and talk about an issue that is one of the few issues that we can get virtual unanimity, or close to unanimity, of governors on a bipartisan basis, and that is the recognition that a very useful tool for government at both the State level and the Federal level is the balanced budget requirement.

I will not go over all the details of the commitment of the governors to the kind of discipline that is necessary if you had such a requirement, but I would like to stress that we do recognize that the presence of a balanced budget amendment will demand that tough decisions be made.

But I would like to dwell today a little bit on the advantage as an institutional tool and the kind of discipline that follows at the State level and that we feel very strongly would be paralleled at the Federal level by the presence of such a tool.

It is clear that over a long period of time, this country did recognize its obligations in terms of fiscal discipline and, for the first 175 years, recognized that periods of deficit had to be followed by periods of repayment of that deficit.

The tradition seems to have been lost somewhere around 1960, and as was noted in the testimony by Senator Thurmond, in the last 27 years there have been only one or two periods of time in which there was a nondeficit situation.

Within the States, that tool has allowed us each year in a nonpartisan way to deal with a nonpoliticized obligation, the obligation of Republican and Democrat, legislative branch and executive branch, to meet their constitutional obligation of establishing income and outflow on a balanced basis.

That has allowed and, in fact, demanded the States—within virtually all of the States over a period of time—has demanded that we not cross the line even incrementally, and it is the incremental growth of deficits that creates a situation where the debt grows to a point where if you look at the Federal budget now, the magnitude of the deficit is just about equivalent to the debt service you have to pay on the accumulated deficit, the debt that has grown over the years.

The fact of the matter is that the balanced budget requirement, if that had been there, would have historically provided the discipline, the institutional discipline and the institutional will, that

would have prevented just a little bit of excess and a little bit more of excess, growing to the level that you have now.

We do recognize that in the political process there has to be some self-discipline, but there also has to be some institutional structure that supports that self-discipline. We feel very strongly that a balanced budget amendment would provide that framework. We support it; we have supported it over the last decade or so.

We recognize that it is not an easy position to take at this period of time when the magnitude of the deficit is so high, but we urge that it be addressed with a much longer view to the advantages that such an approach would take.

Let me add one more point from my own personal experience, Mr. Chairman, about public support for this kind of an issue. I was elected in 1982. I defeated an incumbent governor who, in the State of New Hampshire, made the fatal flaw of allowing a budget to exist which created a deficit.

I inherited a deficit of about 12 or 13 percent of our State budget. I inherited a deficit that was not very popular in the State. I campaigned exclusively on a commitment to deal with that deficit within the State structure.

The fact of the matter is that because of the strong support for that position, I was able within a period of 12 months to establish a budget that turned a 12- or 13-percent deficit into an 8-percent surplus.

It required some tightening of the belt, it required some significant cuts in popular programs, but it did receive the public support because there is, in my opinion, a strong, strong public commitment to fiscal integrity.

On behalf of the governors of the country, I am here supporting the efforts you have made in moving toward a balanced budget amendment and I can assure you that those efforts that you, the other members of the subcommittee, and the Senators who have supported that effort have made will have the support of governors and we would love to help in any way we can.

Thank you for the chance to be here.

[The prepared statement of Governor Sununu follows:]

STATEMENT OF GOVERNOR JOHN H. SUNUNU, CHAIRMAN, NATIONAL GOVERNORS' ASSOCIATION

Mr. Chairman, I appreciate the opportunity to appear before you today to discuss the position of the nation's Governors on the Balanced Budget Amendment to the Constitution.

In February 1984, the Governors adopted their first comprehensive position on the federal budget. This position emphasized the necessity of reducing the deficit over a five-year period to achieve a balanced budget. In addition, the policy provided general guidelines for reductions in each of the major categories of spending -- national defense, domestic discretionary spending, and entitlements, as well as revenue provisions. The policy was updated and substantially strengthened in February 1985. This current policy urges Congress and the Administration to initiate a four-point plan to restore the fiscal position of the United States. It calls on Congress to:

1) Adopt a freeze on federal spending that shares the burden between national defense and domestic spending and that does not burden already hard-pressed lower income Americans. Given that the federal budget problem is now approaching a crisis situation, a freeze on spending is required.

2) Reform major nonmeans-tested entitlement and other mandatory spending programs to increase the long-run control of federal spending.

3) Adopt, if necessary after the budget freeze and reforms have been enacted, measures to increase revenues to reduce the structural deficit.

4) Enact procedural reforms, including a balanced budget constitutional amendment.

This policy was stronger than earlier policy in two important ways. First, the Governors proposed that all cost of living adjustments, including social security, be frozen for one year.

Second, they endorsed both a constitutional amendment to balance the budget and a new line item veto.

The Governors adopted these policies because they were extremely concerned about the potential long-run impact of huge federal budget deficits. They were particularly concerned about the impact of interest rates on investment,

especially at a time when the United States' overall competitive position is declining. Second, they were very concerned about the impact of the deficit-induced higher interest rates on the value of the dollar. An overvalued dollar restricts exports and encourages imports -- both factors that can contribute to potential unemployment in individual states. The overvalued dollar has moderated and exports are up, but all other factors contributing to a continuing large annual deficit continue.

A special analysis of state and local government finances in the February 1988 Federal Reserve Bulletin states that our budget position is currently experiencing fiscal weakness and, despite adjustments, budgetary pressures are likely to remain intense. It concludes by stating that the outlook is very uncertain.

In 1981, state balances were $6.5 billion, and have fallen to $3.5 billion in 1987. The states are in no position to cushion a national recession; therefore, all avenues for national budgetary discipline need to be instituted, including a balanced budget amendment and line-item veto authority for the next President.

Governors are well aware that state revenue systems are directly affected by national economic activity. We do not have separate national and state economies. During periods of recession, state revenues fall in direct proportion to the drop in individual incomes, purchases, and corporate profitability. It is also true that state expenditures for safety net programs will increase. The Governors' budget policy supports national economic policies and budget decisions that will ensure steady economic growth.

Unfortunately, an acceptance of deficit spending is being built into the federal budget process. This bias is fairly recent in that is has only been observed for the last twenty-five years. For the first 175 years of the Republic, fiscal prudence seems to have dominated and deficits were observed only during periods of war or recession. During good times, surpluses were used to reduce the national debt. For example, large deficits after the Revolutionary War, the War of 1812, and the Mexican War of 1846 were reduced during subsequent years. Even during the 1920s, surpluses reduced the debt from $24 billion to $16 billion. Even as late as the 1947-1960 period, we had seven years of surplus that reduced the outstanding debt by $31 billion, thereby offsetting a substantial amount of the wartime deficit.

Since 1960, this prudence has evaporated and deficits have become an accepted practice in federal budgeting. With the exception of a $13 billion surplus in 1969, Congress has allowed persistent deficits to the point where the outstanding debt reached $1 trillion by 1981 and $2.3 trillion by 1987.

Clearly, the national and the world economies can no longer tolerate such fiscal instability and, thus, adoption of a balanced budget constitutional amendment is the only way to force the administration and Congress to make the tough fiscal decisions. It will restore the public's faith in government.

As you probably know, Mr. Chairman, 49 of the 50 states must, by either constitution or statute, have a balanced budget. Governors believe these restrictions represent an important component of fiscal discipline. It helps both the Governors and the state legislators make the very difficult budget decisions they need to make each and every year. It provides fiscal discipline for state government, discipline that increases the public's faith in government.

In looking over the various arguments used to oppose the amendment, none are very convincing on their own, but compared to the risk of continuing large deficits and the enormous accompanying economic impact, the arguments are insignificant indeed.

Opponents of the balanced budget amendment generally argue that it would restrict fiscal policy and have a devastating impact on the economy. To analyze the validity of this argument, it is important to differentiate between the short-run impact of fiscal policy limitations on a year-to-year basis after an initial balanced budget is attained.

Clearly, if the current deficit were eliminated in one year, it would likely create a recession. For this reason, the Governors' position has always been that the current deficit should be eliminated over a three to five year period. The starting date of the amendment would have to be adjusted in order to allow for a period of orderly reduction.

Once the structural deficit is eliminated, then the year-to-year requirement for balance should not be destabilizing to the economy. First, the resolution under current consideration would allow the automatic stabilizers to work since it requires a balanced planned budget, not a balanced actual budget. Second, the federal government's track record in

stabilizing the economy through fiscal policy has been poor at best and probably has been counterproductive.

According to the resolution, any actual deficit would have to be paid in the ensuing fiscal year. While at times such a provision could be pro-cyclical, it could easily be neutralized by budgeting a small 2-3 percent surplus on a yearly basis to offset both estimating errors and changes due to shifts in the underlying economy. Currently, thirty-six states have budget stabilization funds to help buffer state finances from sharp fiscal disruptions caused by the business cycle. Fiscal 1988 figures show state funds at $2.3 billion, which equals approximately 1 percent of expenditures.

To summarize, I do not suggest that the answer is easy, but I do suggest that an amendment would assist in forcing Congress to make the difficult budget decisions. It clearly works in the state capitols of 49 of our 50 states.

The balanced budget amendment and line-item veto are only two of many issues the Governors are discussing to restore the balance to federalism. The Garcia decision suggests that the political process, as played out in Congress, should be the final arbiter of the design of the federal system. While the states have worked hard to see that the public and Congress are fully aware of the advantages of preserving a strong state and local role in the federal system, there are signs that Congress may be unwilling to restrain itself in an effective manner. This legislation will help, but more fundamental action may still be needed.

As a result, NGA has a Federalism Task Force that is evaluating alternative approaches of a judicial, legislative, or constitutional nature that would help clarify and protect an appropriate role for the states and necessary limits on federal authority. One approach would be a coordinated effort by the states to work through the courts to develop an understandable and workable definition of the powers reserved to the states. Such an effort would concentrate on addressing the issues raised in the Garcia decision.

A second strategy would call for the adoption of federal legislation that requires Congress to give special attention to the impact of federal legislation on state and local government. Such legislation could provide for detailed impact statements and provide special consideration when the impact

of federal action was found to be significant. Such legislation might also require reimbursement for mandated costs and/or assure a more direct state role in developing regulations and programs implementing intergovernmental priorities.

A third strategy would call for changes in the Constitution itself, or alternatively, in procedures for calling a constitutional convention should Congress fail to act to assure a balanced federal system. One possible approach would be to seek support for an amendment that would clarify the procedures for calling a convention for a special purpose that would make Article V viable.

The Governors will be reviewing these proposals in the months ahead and we would welcome the views and counsel of the members of this subcommittee.

Mr. Chairman, I appreciate the opportunity to present the views of the National Governors' Association.

Senator DECONCINI. Governor, thank you.
Mr. Niskanen.

STATEMENT OF WILLIAM A. NISKANEN

Mr. NISKANEN. Mr. Chairman, I am pleased to have this opportunity to testify before a committee that recognizes the importance of effective constitutional limits on Federal borrowing and taxes.

My remarks today focus on the choice of specific language for such an amendment, including comments on the several proposed amendments being considered by this committee. I offer these remarks as an independent scholar and as one of the founders of the National Tax Limitation Committee.

A constitutional amendment should be expressed in simple, clear, elegant, and parsimonious constitutional language. Moreover, it should be consistent with legislative procedures and designed to be effective in a broad range of possible conditions.

Of the several proposed amendments being considered by this committee, S.J. Res. 3 offered by Senator Dole, I believe, best meets these criteria. This proposed amendment would require that Congress approve a balanced budget, but it would not require an actual balance if receipts, for various reasons, are lower than forecast receipts.

One should also recognize that the additional restraint that actual outlays not exceed forecast outlays would probably require that Congress establish a contingency fund within the budget equal to around 4 percent of forecast outlays, or to authorize the President to make selective deferrals or rescissions to meet this restraint.

Consistent with the general approach of this proposed amendment, I recommend adding one word to section 2 such that forecast receipts shall not increase at a rate greater than the rate of increase in national income in the second prior calendar year.

I suggest this minor change for two reasons. The rate of increase in national income in the previous fiscal year is not known at the time that Congress must approve the budget statement. Second, use of a calendar year base would provide a 21-month lag between the rate of growth of national income and the growth of outlays, providing a somewhat stronger counter-cyclical effect.

With this change, S.J. Res. 3, I believe, would be the best of the several proposed amendments that have been considered.

S.J. Res. 11, offered by Senator Thurmond and others, is similarly concise, but from my perspective presents two problems. Section 1 would require that actual outlays not exceed actual receipts without the approval of three-fifths of the total Members of each House.

This would be unduly constraining, difficult to implement, and would introduce undesirable procyclical changes in the Federal budget. Under most circumstances, it is important for Congress to approve a balanced budget, but it is not important and it is often counterproductive to require an actual balance in each fiscal year.

The section 2 provision affecting any bill to increase revenue is a smaller problem, but it would lead to disputes over interpretation about whether a complex bill, such as the Tax Reform Act of 1986, would be subject to this restraint if revenues are forecast to in-

crease in some years but not others, or if they are forecast to increase on a dynamic basis but not on a static basis, or if there is a dispute about the revenue forecasts.

I am sympathetic with the objectives of this version of the amendment, but these two concerns lead me to prefer the alternative.

For several reasons, S.J. Res. 112, offered by Senator Shelby, is not acceptable. Section 1 is true by definition. Specifically, this amendment does not provide for a balanced budget either in prospect or in fact.

Section 2 would limit total outlays to 20 percent of the GNP in the prior calendar year in any year for which Congress does not approve a specific exception. The implementation date is also unusually constraining and, in addition, I believe the proposed amendment is unduly lengthy.

S.J. Res. 161, offered by the chairman and others, reflects careful thought, but I suggest it is unduly complex. Sections 1 and 2, for example, include three different balanced budget provisions.

One, budget outlays may not exceed forecast receipts. Second, any actual deficit must be repaid in the following fiscal year. Third, the total debt may not be increased without a special vote. Any one of these provisions, I believe, is sufficient.

In addition, the repayment provision would require a temporary reduction in outlays or a temporary tax increase in a year following a recession, such as fiscal year 1983, when economic conditions are still relatively weak.

The section 3 provision requiring the President to submit a balanced budget, I believe, is unnecessary. Congress may achieve this result by legislation and, in any case, any President will submit a balanced budget if Congress is constrained to approve a balanced budget.

The section 4 provision affecting revenue bills is subject to the same problem as the similar provision in S.J. Res. 11 and I will not elaborate on that again. Finally, I think this proposed amendment is also unduly lengthy.

In summary, of the several proposed amendments considered by this committee, only S.J. Res. 3 meets the test of effective and concise constitutional language. Many of us who have worked on this issue for years have our own preferred formulation, and I have included my own as an appendix to my remarks for your consideration.

Given the several proposed amendments now before the committee, I recommend that you approve S.J. Res. 3, with the minor change that I have suggested, and I would be pleased to promote approval of this proposed amendment by Congress and the States.

A concluding note: A final grand compromise between President Reagan and Congress may be appropriate. For several years, Congress has pressed the President to accept a tax increase as part of a package to reduce the deficit and the President, for good reasons, has resisted this pressure.

If I had continued to serve him as an economic advisor, I would now advise him to approve some revenue increase that does not increase individual or corporate tax rates only after Congress ap-

proves an effective constitutional limit on borrowing and taxes for submission to the States.

Such a final grand compromise would make a contribution to reducing the major adverse legacy of Reaganomics and, more important, would strengthen our enduring national commitment to limited constitutional government.

Thank you.

[The prepared statement of Mr. Niskanen and a letter, subsequently received, follow:]

STATEMENT OF WILLIAM A. NISKANEN, CHAIRMAN, THE CATO INSTITUTE

CHOOSING A BALANCED BUDGET AMENDMENT

Mr. Chairman, I am pleased to have this opportunity to testify before a committee that recognizes the importance of effective constitutional limits on federal borrowing and taxes. My remarks today focus on the choice of specific language for such an amendment, including comments on the several proposed amendments being considered by this committee. I offer these remarks as an independent scholar and as one of the founders of the National Tax Limitation Committee.

A constitutional amendment should be expressed in simple, clear, elegant, and parsimonious constitutional language. Moreover, it should be consistent with legislative procedures and designed to be effective in a broad range of possible conditions. Of the several proposed amendments being considered by this committee, S. J. Res. 3, offered by Sen. Dole, best meets these criteria. This proposed amendment would require that Congress approve a balanced budget, but it would not require an actual balance if actual receipts, for various reasons, are lower than forecast receipts. One should also recognize that the additional restraint that actual outlays not exceed forecast outlays would probably require that Congress establish a contingency fund equal to around 4 percent of forecast outlays or authorize the President to make selective deferrals or recessions to meet this restraint. Consistent with the general approach of this proposed amendment, I recommend adding one word to Section 2, such that forecast receipts ". . . shall not increase at a rate greater than the rate of increase in national income in the previous calendar

year". I suggest this minor change for two reasons: (1) the rate of increase in national income in the previous fiscal year is not known at the time that Congress must approve the budget statement, and (2) use of a calendar year base would provide a 21 month lag between the rate of growth of national income and the growth of outlays, providing a somewhat stronger counter-cyclical effect. With this change, S. J. Res. 3 would be the best of the several proposed amendments that have been considered.

S. J. Res. 11, offered by Sen. Thurmond and others, is similarly concise but, from my perspective, presents two problems. Section 1 would require that actual outlays not exceed actual receipts without the approval of three-fifths of the total members of each House. This would be unduly constraining, difficult to implement, and would introduce undesirable procyclical changes in the federal budget. Under most conditions, it is important for Congress to approve a balanced budget; it is not important, and is often counterproductive, to achieve an actual balance in each fiscal year. The Section 2 provision affecting "Any bill to increase revenue . . ." is a smaller problem, but it would probably lead to disputes about whether a complex tax bill, such as the Tax Reform Act of 1986, would be subject to this restraint if revenues are forecast to increase in some years but not others or if there is a dispute about the revenue forecasts. I am sympathetic with the

objectives of this proposed amendment, but the two above concerns lead me to prefer an alternative.

For several reasons, S. J. Res. 112, offered by Sen. Shelby, is not acceptable. Section 1 is true by definition; specifically, it does not provide for a balanced budget, either in prospect or in fact. Section 2 would limit total outlays to 20 percent of the GNP in the prior calendar year in any year for which Congress did not approve a specific exception. The implementation date is also unduly constraining. In addition, this proposed amendment is unduly lengthy.

S. J. Res. 161, offered by Sen. DeConcini and others, reflects careful thought but, I suggest, it is unduly complex. Sections 1 and 2, for example, include three different balanced budget provisions: budget outlays may not exceed forecast receipts, any actual deficit must be repaid in the following fiscal year, and the total debt may not be increased without a special vote. Any one of these provisions is sufficient. In addition, the repayment provision would require a temporary reduction in outlays or a temporary tax increase in a year following a recession, such as fiscal year 1983. The Section 3 provision requiring the President to submit a balanced budget is unnecessary. Congress may achieve this result by legislation. In any case, any President will submit a balanced budget if Congress is constrained to approve a balanced budget. The Section 4 provision affecting revenue bills is subject to the

same problem as the similar provision in S. J. Res. 11. And finally, this proposed amendment is also unduly lengthy.

In summary, of the several proposed amendments considered by this committee, only S. J. Res. 3 meets the test of effective and concise constitutional language. Many of us who have worked on this issue for years have our own preferred formulation, and mine is included as an appendix to my remarks for your consideration. Given the several proposed amendments now before the committee, I recommend that the approve S. J. Res. 3 with the minor change that I have suggested, and I would be pleased to promote approval of this proposed amendment by Congress and the states.

A concluding note: a final grand compromise between President Reagan and Congress may be appropriate. For several years, Congress has pressed the President to accept a tax increase as part of a package to reduce the deficit, and the President, for good reasons, has resisted this pressure. If I had continued to serve him as an economic advisor, I would now advise him to approve some revenue increase that does not increase individual or corporate tax rates, only <u>after</u> Congress approves an effective constitutional limit on borrowing and taxes for submission to the states. Such a final grand compromise would make a contribution to reducing the major adverse legacy of Reaganomics and more important, would strengthen our enduring national commitment to limited constitutional government.

Thank you.

Appendix

Amendment Design Recommended by William A. Niskanen

Section 1. Congress may not increase the limit on the public debt of the United States without the approval by three-fifths of the total members of each House of a bill limited solely to this subject.

Section 2. Congress may not levy a new tax or increase the rate or base of an existing tax without the approval by a majority of the total members of each House.

Section 3. Sections 1 and 2 of this article are suspended in any fiscal year during which a declaration of war is in effect.

Section 4. This article is effective beginning with the second fiscal year after ratification.

(98 words)

The language of this simple proposed amendment is much more consistent with traditional constitutional language and legislative procedures than other proposed amendments, with similar objectives, that have previously been considered. Moreover, this proposal avoids the implementation problems of defining and limiting total outlays and receipts in a specific fiscal year. Congress would be allowed to authorize any level of borrowing and taxes that commands broad current. In addition, this proposed amendment would provide a much-needed stability to the structure of the tax code that would not be achieved by the other amendments. Similar amendments have proved to be most effective in several American states and in several other nations. My judgement is that this proposed amendment would avoid most of the technical problems that have been raised by my fellow economists about the other proposed amendments with the same objectives.

April 4, 1988

WILLIAM A. NISKANEN
Chairman

Senator Paul Simon
Chairman, Subcommittee on
the Constitution
United States Senate
Committee on the Judiciary
Washington, DC 20510-6275

Dear Senator Simon:

I am pleased that my evaluation of the several proposals for a balanced budget amendment has been useful.

My comments on the several additional proposals are as follows:

S. J. Res. 4, introduced by Sen. Gramm

This proposal is carefully crafted and deserves serious consideration.

Sections 1 and 2 are basically identical to those in S. J. Res. 3 introduced by Sen. Dole, although the Dole proposal is more concise. There seems to be a misprint in Section 2; the words "of years" should be deleted.

As I mentioned in my March testimony, I do not believe that Section 3 is necessary; such a rule could be achieved by legislation.

My preferred wording for Section 4 would be "Sections 1 and 2 of this article are waived for any fiscal year during which a declaration of war is in effect." The option of waiving these provisions leaves open the rule by which the waiver is approved and would be an undesirable signal to a potential adversary.

Section 5, I suggest, is unnecessary. Such definitions are best left to implementing legislation.

Section 6 poses the issue whether it is desirable to require a special vote on both a statement deficit and an increase in the debt limit. I suggest not. My own preference is to require a special vote only on the debt limit, but one or the other is sufficient.

Section 7 is unnecessary; the Constitution already assures that Congress has this authority.

In Section 8, the words "for the fiscal year 1989 or" should be deleted, as they are now irrelevant.

For the above reasons, I still prefer the proposal introduced by Sen. Dole to this proposal.

S. J. Res. 8, introduced by Sen. Heflin

This proposal is very similar to that introduced by Sen. Gramm, and most of the same comments apply.

For several reasons, I do not favor the wording of Section 3. Until the tax code is fully indexed, the revenue share of total income would be increased by higher inflation without any new law. In addition, it is often not clear whether a complex tax bill, such as the Tax Reform Act of 1986, will increase revenues. Such a bill, for example, may increase revenues in some years but not others, on a dynamic basis but not on a static basis, etc. For these reasons, I favor the wording in my own proposal, presented in the appendix to my March testimony.

I am sympathetic with the reasons for the more complex waiver provision of Section 5, but I am reluctant to broaden the conditions for a waiver beyond that of a declaration of war. As you recall, the Korean War Emergency Act was in effect for about 20 years.

S. J. Res 50, introduced by Sen. Daschle

For several reasons, I suggest, this proposal is not acceptable.

Most important, this proposal does not require a special vote to increase revenue, a provision in some form that is included in most of the other proposals.

Moreover, this proposal does not permit Congress to approve a planned deficit, even by a supermajority, in the absence of a declaration of war, a national emergency, or projected real growth of less than 3 percent. Incidentally, my judgement is that the U.S. economy is now on a 2.7 percent real growth path, so this proposal would not even require a balanced budget in most fiscal years.

The other sections are subject to the same comments as on the other proposals.

I would be pleased to elaborate on these comments or on related issues at your request. You deserve commendation for your serious attention to this issue, especially during your busy primary campaign.

Respectfully,

William A. Niskanen

WAN:ptf

Senator DECONCINI. Mr. Niskanen, thank you very much. You indeed have been a great leader and inspiration on this effort. I have struggled, as you have, and I am familiar with S.J. Res. 3. Quite frankly, my original introduction to constitutional amendments in this area back in 1977 was simple because I thought we just needed to have it in the Constitution and that people would obey it, and if they did not there was enforcement through the courts.

But as we have gone through this process we have developed S.J. Res. 161 which attempts to address certain problems. For example, some people feel that the President should be a major player in the constitutional amendment.

How do you respond to the question of leaving the President out of this, other than that he will participate because the Constitution says that the Congress shall not pass an unbalanced budget, even if it doesn't make reference to the President's participation?

Mr. NISKANEN. For nearly 70 years, the President has started the Federal budget process with the submission of a Presidential budget. That process—the establishment of the Bureau of the Budget, the establishment of an executive budget—was started by Congress, approved by Congress, and has proceeded since then.

I do not see any special harm in requiring the President to submit a balance budget, but I do not see any reason to include it in the Constitution for two reasons. One is that Congress may achieve the same reult by legisaltion without a constitutional amendment.

Second, if Congress itself is constrained to approve a balanced budget, any President who wants to be a part of the action, and they all do, will submit a budget that is subject to the same constraints.

So, I am not concerned about that feature of the proposal in terms of its effects, but I do not believe it is necessary.

Senator DECONCINI. Well, you make a good point that maybe you could solve it by legislation and that would do it. I certainly wish President Reagan had submitted a balanced budget. It would have put us in a heck of a spot here, quite frankly.

Every year that the President has submitted big deficits in his budgets he has provided Congress with an escape because we can say, look, you want to pass the President's budgets; we have voted on them time and time again here. I think the last one he sent up here with an $180-some billion deficit only got 18 votes, so obviously it was turned down. I cannot applaud Congress for doing much better on the deficit, but that was the feeling.

The other question I have regarding your problems with S. 161 is trying to recoup any deficits or loss in the next succeeding year, which was specifically written into this amendment.

How would you approach doing that, just the self-imposed discipline of Congress? If Congress ended up with a deficit even though they had adopted a nondeficit budget, but because of economic circumstances and things out of their control, they ended up with a deficit that year, the next year would they just take care of the deficit on their own?

Mr. NISKANEN. In general, Senator, if Congress approves a budget in which forecast outlays are no higher than forecast re-

ceipts, then you will have some years of surplus and some years of deficit.

I do not believe that it is necessary to provide for recoupment of a prior deficit in the immediately following year. In the particular version offered by Senator Dole, for example, in order to implement the constraint that actual outlays not exceed budget outlays, Congress would probably have to include a buffer or a contingency fund in the outlay side of the budget of about 4 percent; in other words, outlays that are not yet appropriated or approved in order to meet that particular constraint, given what has happened over time in terms of the variance of unexpected outlays relative to budget outlays.

That would mean that in a good many years, you would have a surplus, and occasionally when we have a weak economy and in the year following you would have a deficit. I do not believe it is important to recoup the deficit in the immediate following year, and it can lead to some unfortunate economic consequences.

It could lead to some undesirable instability of the tax code, requiring increases in tax rates, for example, such as in fiscal year 1983 when the economy was still relatively weak. It could require temporary reductions of outlays in a similar period, so I think that that particular recoupment provision is not necessary if the process is such that it leads to a rough balance over the course of an economic cycle.

Moreover, it can be counterproductive in terms of its effects on the economy to require the recoupment in the immediate following year. I recognize that many State governments have a similar provision in their constitutions, so it is a provision that can work in the sense that the State governors often have had to make very hard choices to make it work, but it can work.

I do not reject it on that basis. I think that it is an unnecessary provision, however, and I think one that can have unusual or unfortunate economic consequences.

Again, I want to repeat my earlier statement that it is important for Congress or for an American business or for a family, for that matter, to plan over time on a stream of receipts and outlays that are balanced.

It is not terribly important to achieve an actual balance in each year. There will be occasions when revenues are temporarily weak or you have got temporary conditions leading to an increase in outlays in which borrowing by the Government, as well as borrowing by firms or families, is an appropriate action.

Senator DECONCINI. Is that not addressed by the three-fifths vote when the need to do that is so paramount?

Mr. NISKANEN. It could be. I think that it is appropriate to apply a three-fifths vote. My own preferences would be for a higher share for a planned deficit. I think it is not viable to require a three-fifths vote for an actual deficit if economic conditions turn down unexpectedly.

Charlie Schultze can confirm this, but my understanding is that the Council of Economic Advisers in its whole history has only forecast one recession, and in that case the forecast was wrong.

So, with the best information available at the top of the Federal Government, we do not have the ability to be very confident about

forecasting recessions. And I think that we should report out budgets with an expectation that they would be balanced, but if it turns out that they are not balanced in a particular year, I think it is not very important if the process leads to a rough balance over the course of an economic cycle.

Senator DECONCINI. Thank you very much.

Governor Sununu, great concerns have been raised about adopting a constitutional amendment that would, in fact, force us here in the political arena to evade that amendment by spending "underground" or off-budget. This is done by using regulations or by shifting expenses by forcing other entities to provide services that the Government typically provides.

For example, the Government could simply shift expenses by requiring employers to pay for certain health benefits instead of footing the bill itself. Opponents argue that this would put the various activities of the Government completely out of the reach of the budget control.

Could you comment on these concerns? And could you provide any specific examples of how States have handled the problem?

Governor SUNUNU. I can, sir. What I would like to do is introduce my response to that with a comment on some of your previous questions, if I may.

Senator DECONCINI. Please, sure.

Governor SUNUNU. I am concerned that there is, I believe, some confusion between what, in my opinion, and I believe in the opinion of most governors, ought to be a constitutional amendment as a political tool versus a constitutional amendment as an economic artifact.

I think that what we are looking at in terms of all the benefits is an amendment as a political tool, as a statement of obligation, as a requirement established on both the legislative branch and the executive branch, and I think your original instincts of being relatively simple in your statement are probably the more appropriate ones.

All the details that have been added to some versions of that amendment, I think, can be best handled by the legislation that would follow in response to the constitutional requirement, and for the most part that is how it is handled in virtually all of the States.

You have a structure there that would allow for legislating the sequence of procedures associated with budgeting and the appropriate computations that would be made there. Yes, there would be a temptation to fudge a little bit in that, but, again, I believe the same kind of political pressure—by virtue of the obligation being constitutional, then political pressure could be brought to bear to make that legislation responsive.

The legislation probably has to have some flexibility to deal with the kinds of issues that have been raised, but that flexibility, in my opinion, is best dealt with legislatively, not constitutionally.

Now, in terms of your question, then, the point I would make there is the suggestion that an obligation established by the Constitution would force you to act surreptitiously and behind the scenes is no more valid there than it is in most of the States.

The fact is that virtually everything gets read one way or the other; that there is a political tension established and anybody who is in violation if not in the letter of the intention of the Constitution, but in violation of the spirit, has to answer to political consequences.

The political tool of the requirement, to me, is the safeguard against what you are concerned about. There is no other safeguard, other than final recourse to the public, and the establishment of a political tool as a constitutional amendment gives focus to that recourse.

Senator DECONCINI. You do not have concerns that Congress would shift these burdens, these expenditures, some place else?

Governor SUNUNU. Well, the example you gave is no different than the kinds of decisions Congress should have to make on just about every issue, whether it is more appropriate for health benefits to be paid for out of public funds or whether it is more appropriate for the flexibility that comes from having health benefits paid for by the individuals.

We make that choice at the State level. The private sector makes that choice. We in New Hampshire have arrived at a compromise of a basic package of support that the State will support with alternatives, then, that are available to the individuals but purchased cooperatively through the State.

That is not a shifting of responsibility that obviates our requirement for a balanced budget. That is merely a recognition of the details of economics on an annual basis.

Senator DECONCINI. I take it from your first comments there that you would be more inclined to support S.J. Res. 3 for its simplicity.

Governor SUNUNU. I must confess to the fact that I am not here to talk about the details of how you phrase that amendment. I am a believer that once you establish the constitutional obligation by virtually any language that establishes that as a political imperative that everything good that can flow from an amendment will flow from that language, and the simpler, the better.

Senator DECONCINI. You are also satisfied that the enforcement of such an amendment, as simple as it may be or even if it were complex, is the political reality of public officials not complying with the constitutional mandate?

Governor SUNUNU. That is correct.

Senator DECONCINI. Is that what has done it in the States?

Governor SUNUNU. In most of the States, you will find the constitutional requirements rather ambiguous. In my own State, it is a pair of phrases within the constitution, one of which admonishes us to frugality and that collectively established the requirement for a balanced budget amendment that is then reinforced by legislation that then puts a requirement on the governor to submit such a budget and then the legislature to pass such a budget.

So, the admonitions are not only simple, but to be very blunt about it, in some of the States they are ambiguous. Yet, in 49 of the 50 States, they have been followed by legislation which reinforces that and then a political will that demands it.

Senator DECONCINI. I guess Congress is concerned here because we are kind of the last step toward expenditures and it is relatively

easy for us to finance deficits. But it seems like it is a little more difficult for States to do it in the fact that, if I am correct, States would actually have to vote to issue bonds or to go borrow the money.

Though we vote for a deficit, we do not have to vote to direct the Treasury Department to go borrow the money. What I wonder is how do we tighten that? Your points are well taken, maybe everything about what should be done here cannot be written down. You have to have some faith that elected officials are going to comply with what is clearly the intent of a constitutional amendment, and that is do not spend deficit dollars.

Governor SUNUNU. Let me add one more point that I tried to make in my statement. In fact, your deficit today is almost equivalent to your debt service requirement, and you have now the debt of a thousand deficits, so to speak, or 200 deficits or whatever it is. It is the accumulation because of the lack of a politically neutral line that committed both branches and both parties and both philosophies, Democrat and Republican, liberal and conservative, legislative branch and executive branch.

If there is a line there, there is a focus point for requirement against which failure to do what should be done would be measured politically, and slight deviations were permitted because of the lack of a line and it created an instability in the system that then became self-propagating.

The advantage in the States was that the line was there; we had to respond to it. It was not easy, therefore, to drift away from it. I do not expect a balanced budget amendment to solve the problem overnight. It is, to me, a long-term solution.

It is a political solution, and then the day-to-day will has to follow from the commitment of elected officials being responsive to that.

Senator DECONCINI. Thank you, Governor, very much. Mr. Niskanen, thank you very much for your testimony and help.

Our next panel will be Charles L. Schultze, Program Director of Economic Studies at the Brookings Institute, and Chief Economic Advisor to President Carter. Mr. Schultze, thank you very much for taking the time here. It is nice to see you again and we truly appreciate your willingness to come and help us wrestle one more time with this.

I am sure you have spent so much time on it, you could probably recite many of these arguments in your sleep, but your expertise in economics has driven us to ask you once again to be with us.

We also have Roy Ash, former Budget Director, Office of Management and Budget. Mr. Ash, thank you also for the outstanding work that you have done in trying to encourage both administrations and Congresses to move in more responsible manners.

We will first hear from you, Mr. Schultze. If you have a full statement, which I understand you do, it will appear in the record. Would you summarize it for us?

STATEMENT OF A PANEL CONSISTING OF CHARLES L. SCHULTZE, DIRECTOR, ECONOMIC STUDIES PROGRAM, THE BROOKINGS INSTITUTION; AND ROY L. ASH, FORMER DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

STATEMENT OF CHARLES L. SCHULTZE

Mr. SCHULTZE. Thank you, Mr. Chairman. I will try to summarize briefly. As you say, I may be able to recite these arguments in my sleep. I hope you do not think I made them up in my sleep.

Senator DECONCINI. No, I do not mean to infer that. I just know that you have worked on this for many years. For the 11 years I have been here, you have been most responsive to those of us who have pushed a constitutional amendment with very logical, concise recommendations of what we can do otherwise. We have not been able to follow those either.

Mr. SCHULTZE. Mr. Chairman, I think attaining a balance in the budget is a terribly important objective for the Nation. But I do not think it should be enacted as a constitutional requirement. There are a lot of policies I support, but I do not think they ought to be put into the Constitution.

There are three key reasons why the balanced budget amendment, in my judgment, and a limitation on tax increases is a bad idea, and I am going to address myself to the amendment you have sponsored, S.J. Res. 161.

First, the amendment is not needed. The major of the intellectual basis for the amendment put forth by its proponents is that in the normal majority voting process the Government tends to generate excessive spending and excessive deficits.

The benefits of many Government spending programs are concentrated among the few, but the costs are disbursed widely over a large population. So in any given program, there may be hundreds or thousands of dollars' worth of benefits to a few and only pennies of cost to the many. And so the proponents are well organized and the opponents are dispersed and ineffective. Therefore, the normal voting process tends over the long term to generate excessive spending. The special interests prevail.

Moreover, according to the proponents of the amendment, the public and their representatives are myopic. The benefits are pretty immediate while costs can be postponed a while by voting deficits, and that is what happens. So we get excessive spending and excessive deficits. Those are the key arguments behind the notion that a majority voting process, however democratic, is subject to those biases.

They are very interesting arguments. There is only one problem; history does not bear them out. Up until the early 1980's the United States Government did not exhibit a tendency to produce ever-increasing expenditure burdens on the people.

I ask you to look at table 1. I have passed my tables out separately and I think they may be in front of you. In table 1, I break down Government spending into two components: Social Security revenues and expenditures and everything else on which the Government spends money, called general expenditures and general revenues.

What you will notice from table 1 is that general expenditures and revenues expressed as a percentage of our gross national product declined steadily relative to the size of our economy all through the postwar period up until the early 1980's.

Yet, it is this category of Government spending in which the presumed bias and upward spending pressures are supposed to occur—a few special interests getting large benefits at a small per capita cost to the vast majority of disinterested voters. But that simply did not happen.

Social Security was the key area in Government that did expand steadily and rapidly, both revenues and expenditures. But this is the one program in the Federal Government that, rightly or wrongly, most of the American people want and are willing to pay taxes for; they have demonstrated that time and time again.

In short, there is no evidence up until the 1980's of an upward spending bias, except perhaps in Social Security, and there is a clear case of the American people in the overwhelming majority wanting it and being willing to pay for it with tax increases.

Table 2 is not conclusive, of course, but it does show that when you look at other countries the United States is a very low-spending country. Next to Japan, we are lowest in terms of total spending relative to GNP of all the industrial countries in the world. When you take out defense, we are the lowest, and outside of Japan nobody else is even close.

Third, if you look at table 3, Federal budget deficits calculated, as they should be, on the assumption of a high but not overheated level of economic activities, have averaged up until the 1980's about 1 percent of our gross national product.

There are some economists who believe we ought to exclude from the definition of budget expenditures the inflation premium in interest rates, for a number of, I think, valid but complicated reasons. If you do that, the data show no tendency to run deficits until after 1982.

Now, you may well ask if there were no inherent tendency to produce large and excessive deficits over long periods of time in the United States, why did it occur after 1981? Why are we where we are now with respect to budget deficits?

Well, it is fairly simple, I think. People and nations make mistakes. In 1981, this Nation—the President and the Congress, both parties, joined in—made a massive but unique mistake in thinking they could have a huge build-up in defense and a massive tax cut at the same time. Well, we could not.

We made a huge mistake, and a political impasse is now preventing us from getting out of it. A constitutional amendment will not get us out of it. It will not force a vote to get us out of it, and once we are out we do not need a constitutional amendment to stay out if history is any guide.

My second proposition is that the balanced budget amendment would produce a much more erratic and much more volatile American economy. In the 40 years since World War II, the United States economy has been far more stable than it was in the prewar years, even if you exclude the Great Depression.

To give just one example: In the 40-odd years before World War II, the American economy spent half the time going up and half

the time going down. Since World War II, however, it has spent 80 percent of the time going up and only 20 percent of the time going down. Many scholars, myself included, believe that the automatic stabilizing characteristics of the postwar Federal budget are an important reason why the improvement occurred.

When we go into a recession, revenues automatically fall and unemployment compensation and some other expenditures automatically rise, without a vote by Congress. That stabilizes private incomes and helps stabilize the Nation against recession.

Under the amendment proposed in S.J. Res. 161, this stabilizing force would be seriously threatened. Let me work you through a scenario.

Assume we had the amendment in effect. The first year of a recession would turn an initially balanced budget into a deficit. Under the proposed amendment, the Congress would then not only be required to bring the budget for the next year back into balance, but, incredibly, it would have to produce a surplus equal to the prior year's deficit. Taking into account absences, illnesses, and the like, a one-third minority in either House could enforce this draconian policy on the country.

I have made some estimates of what the consequences would be if we had a recession of the size and duration of the one which occurred in 1982 while a balanced budget amendment was in effect. Assume, for example, that such a recession began in 1992 with the amendment in effect. That kind of recession would drive a Federal budget which had otherwise been planned for balance into a deficit to the tune of more than $80 billion in the first year and more than $115 billion in the second.

But the constitutional amendment would require that in passing a new budget for that second year, the Congress would have to cut spending or raise revenues by enough not only to remove the $115 billion deficit, but to provide a surplus of $80 billion to pay back the prior year's deficit. Some combination of almost $200 billion in tax increases or expenditures would therefore have to be enacted right in the middle of a recession. I am normally a person who does not like dramatic words, but I think, in all responsibility, such a course of action would prove catastrophic. In that sense, the amendment would give us much greater instability in the American economy.

Finally, the amendment, in my judgment, would drastically reduce the quality of Federal budgeting and increase substantially the degree of Government regulation over the economy.

I believe it would push the Congress into creating all kinds of off-budget entities and off-budget spending, to substitute regulations for Government programs. Mind you, you are enacting something for generations. Give me a room full of ex-OMB and CBO staffers and it will not take me a generation; it will only take me about a week to transfer a huge part of the Federal budget off budget.

Now, you say States do not do this. Well, as Mr. Ash, I believe, will testify, they do an awful lot of it. More importantly, the thing that keeps the States from running big budget deficits year in and year out is not constitutional amendments. It is the simple fact that, unlike the Federal Government, States do not have the

money-creating power; borrowers simply will not let them borrow very much. They cannot do it.

If you really want to keep the Federal Government from running deficits year in and year out, stop its money-creating power, put us on a gold standard, have 100-percent reserve requirements on the banks, and you will stop the deficits. That would be catastrophic also, for otner reasons. It would be a very bad thing to do. In any event, States do not have money-creating power, and that is fundamentally what limits them.

Finally, Mr. Chairman, and I have run on too long, while I am not a constitutional lawyer, it seems to me obvious that one of two things is going to happen.

Either the Supreme Court has to interpret the inherent ambiguities and enforce the provision, thrusting the Supreme Court right into the middle of the legislative branch, or if the Supreme Court declares it nonjustifiable, if it stays out for various reasons, then given inherent ambiguities in any such amendment it is going to be unenforceable and it will be a dead letter.

So, I believe from that standopint, even though, as I say, I am not a constitutional lawyer, you only have a chance at your poison. You either get the Supreme Court into it, or if they do not get into it, the amendment gradually—it probably would not even take a decade—becomes meaningless.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Schultze follows:]

Statement

of

Charles L. Schultze
Brookings Institution

before the

Subcommittee on the Constitution

of the

U.S. Senate Judiciary Committee

March 23, 1988

Mr. Chairman and Members of the Subcommittee:

I will address my comments on a balanced-budget amendment to the one contained in S.J. RES 161 sponsored by Senators DeConcini, Hatch, and Proxmire. The thrust of my remarks would, however, apply in large part to other versions of the amendment that seek to accomplish the same purpose.

I want to make three points:

- o First, the amendment is not needed.
- o Second, the amendment would result in a substantially less stable and more volatile, economic performance.
- o Third, enacting such an amendment would lead to a sharp deterioration in the quality of the federal budget process.

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*The author is Director of the Economic Studies Program at the Brookings Institution. The views set forth here are solely those of the author and do not necessarily represent the opinions of the trustees, officers or other staff members of the Brookings Institution.

1. A Constitutional Amendment is Not Needed

Advocates of a Constitutional amendment argue that there are two major flaws in the democratic majoritarian process of making budgets that bias the federal government toward excessive spending financed by excessive borrowing. First, they argue, the benefits from most government programs are highly concentrated among a few recipients while the costs of each such program are spread widely among all taxpayers. Advocacy of higher spending is therefore organized and effective, opposition is diffuse and feeble. The consequence is an excessive level of government spending. Second, they contend, voters and their representatives are afflicted with myopia; they value highly the benefits of government programs which are immediate, and discount the tax costs which are often postponed to the future by the device of federal borrowing. Because of this myopic bias the budget process persistently generates excess deficits.

The problem with these interesting arguments is that a longer-term view of history simply does not bear them out. Table 1 below separates government revenues and expenditures into two categories: the expenditures and payroll tax revenues of the social security program (including Medicare) and "all other" activities of the federal government -- defense, interest on the debt, welfare programs and so forth. The latter I have labeled "general revenues" and "general expenditures." Spending and revenues are expressed as a percentage of GNP.

Table 1. General Revenue and Expenditures and Social Security Revenues and Expenditures as a Share of GNP

Fiscal year	General expenditures	General revenue	Social Security expenditures	Social Security revenue
1951-60	16.9	16.3	1.3	1.6
1961-70	16.3	15.4	2.9	3.0
1971-80	15.7	13.7	4.9	4.6
1984	16.7	12.4	6.4	5.7
1985	17.6	12.7	6.5	6.0
1986	17.3	12.4	6.5	6.1

Source: Tabulated from data in Historical Tables, Budget of the United States Government, Fiscal Year 1989.

Note: The social security category includes Medicare outlays and on the revenue side the payroll taxes for hospital insurance and the beneficiary premiums for supplemental medical insurance. Some contributions to the Medicare program come from general revenues; these are not included in the "social security revenue" column.

As you see from the table general expenditures and general revenues steadily declined as a share of GNP throughout the postwar period until 1980. Yet it is this "general" category of government where the presumed bias toward excessive spending is supposed to occur -- a few special interests getting large benefits at a small per capita cost to the vast majority of disinterested voters. That simply did not happen.

Social security benefits and the taxes to pay for them have risen steadily. But these are precisely the programs which do not fit the stereotype of a program which generates an upward bias in spending. Benefits are not concentrated but widely distributed. The taxes to pay for them are highly specific and very visible. If there is any one program which seems to have the overwhelming support of the American people -- wisely or not -- it is this program. The voting public wants the benefits and is perfectly willing to pay for them. In recent years, for example, the public apparently approved of legislation which substantially raised the total sum of social security payroll taxes (at least over the next 75 years) relative to the total value of benefits.

It is also interesting, although not conclusive for the argument, that governmental spending in the United States, taken as a whole,[1] is less than any other major industrial country outside of Japan. And were it not for defense spending the U.S. spending ratio would be lower than Japan. The other ratios in the European countries are not even close.

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1. Since the degree of federalism varies widely among countries the only way to compare government spending among countries is to include all levels of government.

Table 2. Total Government Outlays as percent of GDP, 1985

	Total	Total, less defense
United States	36.7	30.1
Japan	32.7	31.8
United Kingdom	47.7	42.6
Germany	47.2	44.4
France	52.4	48.9
Italy	58.4	56.0
Sweden	64.5	61.9

Source: Total from OECD Economic Outlook December 1987, Table R14, p. 187. Defense spending from OECD National Income Account Tapes; Germany and Swedish defense spending/GDP ratio based on 1984 data, French on 1982 data.

Not only does the American budget process have no large bias toward excess aggregate spending, neither does it have a major bias toward excessive deficits -- at last it did not prior to 1980. Outside of recession years, when large deficits are to only understandable but economically desirable, peacetime federal budgets did not tend to produce large deficits.

Table 3 provides historical data on the magnitude of high employment deficits -- that is the budget deficit calculated, as it should be for most economic analysis, on the assumption of reasonably high but not overheated levels of GNP.[2]

2. The Congressional Budget Office estimates of "high employment" are used; they assume that the "high employment" level of unemployment

Table 3. High Employment Budget Deficit, With and Without Inflation Adjustment, Selected Periods
(percent of GNP)

	Budget surplus (+) or deficit (-)	
	High employment basis	High employment bases with adjustment for inflation
1956-81	-1.2	+0.1
1956-81 (excluding Vietnam War and 1975-76 recession)[a]	-0.9	+0.4
1982-86	-3.3	-1.7
1986	-4.3	-2.1

a. 1967-69 and 1975-76 are excluded.

If we leave out the Vietnam War years and the recession year budgets of 1975 and 1976, the high employment deficit averaged less than 1 percent of GNP. The average was higher in the 1977-80 period, but still less than 2 percent. Robert Eisner has argued that the inflation component of interest payments on the national debt should not be included in the deficit for purposes of economic analysis (since it does not represent real income to the recipients, but only a restoration of real asset value).[3] If we make that adjustment, the federal budget deficit -- before the 1980s -- tended to produce small surpluses.

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rose gradually from 5.1 percent in 1956 to 6 percent in the period 1975-80, declined slightly to 5.7 percent in 1987.

3. Robert Eisner, How Real is the Federal Budget, Collier Macmillan (1986).

But if there is no upward bias in the current budget process, how then did we get into the budget fiasco in which we now find ourselves? The reason, I think, is that the nation made a massive but unique policy mistake in 1981, believing that we could simultaneously launch a huge increase in defense spending, have a major tax cut, and achieve a balanced budget. And having gotten ourselves into the mess, a political impasse for the last four years has blocked any significant tax increase and kept the deficit high.

On the one hand, a balanced-budget amendment will not get us out of the mess. If the amendment were passed tomorrow it could not force any member of Congress to vote for a tax increase or spending cut. On the other hand, if history is any guide, once we get out of the current mess we will not need a balanced budget amendment to keep us out.

2. A Balanced Budget Amendment Would be Bad Economics

Federal revenues automatically fall and expenditures for unemployment compensation rise, when recessions occur. The deficit necessarily rises. This budgetary behavior is a very important economic stabilizer. It helps sustain private incomes during recessions, and thus keep sales, employment, and production better maintained than they otherwise would be.

The American economy in the postwar years has been far more stable than it was between the Civil War and the Second World War, even if we exclude the Great Depression from the comparison. In the period between the Civil War and the First World War the American economy spent about half the time in expansion and half in contraction. In the

period since 1946, the economy spent 80 percent of the time expanding and only 20 percent contracting. In the years after the Second World War fluctuations in the American economy around its long-term growth trend were only half as large as they were in the period 1871-1914. Many people who have studied the period credit an important part of the improved economic performance to the automatic stabilizing characteristics of the federal budget.[4]

Under the Constitutional amendment proposed in S.J. RES 161, this stabilizing force would be seriously threatened. The first year of a recession would turn an initially balanced budget into deficit. But under the proposed Constitutional amendment the Congress would not only be required to bring the budget for the next year back into balance but, incredibly, it would have to produce a surplus equal to the prior year's deficit. Taking into account absences, illness, and the like a one-third minority in either House could enforce this Draconian policy upon the country. Moreover, under the proposed amendment that same minority, by refusing to vote for a debt increase, could force a revised and balanced budget, even in the first year of recession. It would be heard to imagine a more destabilizing set of requirements.

The economic consequences could be disastrous. In a recent study I used the results of four large econometric models to estimate some of the economic and budgetary consequences of a future recession that more

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4. See for example: J. Bradford De Long and Lawrence Summers "The Changing Cyclical Variability of Economic Activity in the United States," Discussion Paper 1077 (Harvard University, Institute of Economic Research, August 1984); C. Schultze Other Times, Other Places (Chapter 3), Brookings Institution, 1986.

or less paralleled the 1981-82 recession in the United States.[5] It produced some results that are relevant for this discussion. Assume, for example, that such a recession would occur in 1992. The recession would drive a federal budget, which had otherwise been planned for a balance into deficit to the tune of more than $80 billion in the first year and more than $115 billion in the second. But the Constitutional amendment would require that in passing a new budget for that second year the Congress would have to cut spending or raise revenues by enough not only to remove the $115 billion deficit but to provide a surplus of $80 billion to offset the prior year's surprise deficit. Thus, some combination of almost $200 billion in tax increases or expenditures would have to be enacted, right in the middle of a recession. The results could, as I said, be catastrophic.

Proponents of the amendment will reply that a 60 percent majority of the total membership of both Houses could surely be assembled to avoid this problem. Possibly -- on most occasions even probably. But you are not writing a law that can be easily changed; you are enacting a Constitutional provision meant to last for the ages. I do not think, on sober reflection, anyone should be willing to gamble the American economy on a conviction that there will never be a willful minority in one House of the Congress to block the necessary action.

Quite apart from recession, there is absolutely no warrant for assuming that the appropriate relationship between revenues and expenditures in the federal budget should be one of exact balance.

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5. C. L. Schultze, "The Economics of Gramm-Rudman," American Economic Association Annual Meetings, December 1987.

During the next several decades, for example, our social security trust fund will be running very large surpluses as we try to build up resources in the trust fund to help meet the huge increase in social security benefits that will occur in the next century as the baby-boom generation begins to retire and draw benefits. Since the overall federal budget includes social security receipts and expenditures, we should begin to plan for annual surpluses in the overall budget roughly equal to the surpluses in the social security trust fund. Otherwise we will be squandering the social security surplus to finance deficits elsewhere in the budget. On the other hand, should population patterns reverse themselves in future years, through an increase in the birth rate, there will be periods in which the social security trust fund and the total budget ought to be running annual deficits, as the earlier accumulation of surpluses are paid out.

Barring some very special reason, running budget deficits in time of economic prosperity is bad economic policy, and running deficits of the massive size we have in recent years is terrible policy. But a Constitutional amendment that effectively prohibits budget deficits would be even worse, given the fact that having written the bad policy into the Constitution, it will be vastly more difficult to get rid of it than it will be to change our current budgetary policy.

It would be highly dangerous to embed in the Constitution the particular economic nostrums of the moment. When those nostrums tie government policy to a rigid formula they become especially dangerous. To give an example -- apart from the balanced budget amendment itself -- one of the chief intellectual fathers of that amendment is Nobel

Prize winner economist James Buchanan. In the article in which he recommends a balanced budget amendment, Buchanan also recommends that the Constitution be amended to require the Federal Reserve to increase the supply of base money in the economy every year by between 3 and 5 percent annually.[6] Given the truly radical changes which, because of financial deregulation, have occurred since 1980 in the relationship between money and economic activity, such a provision, had it actually been in the Constitution, would have wreaked havoc on our economy.

3. The Amendment Would Worsen the Quality and Performance of Government

A Constitutional amendment along the lines of S.J. RES 161 would, I am convinced, inevitably lead to a substantial deterioration in the quality of American government

First, the amendment refers to balancing "receipts" and "outlays." But there is no legally or even commonly accepted definition of the terms "receipts" or "outlays." Given the inherent looseness of the terminology the President and the Congress would be continually tempted to define items of spending as "off-budget," to design programs so that they may more readily be declared "off-budget," and to convert expenditure programs into below-market guaranteed loans.

Moreover, in deciding on the adoption of a Constitutional amendment it is necessary to think in terms of generations. Over that period budget accounting might well become meaningless, as a succession

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6. James Buchanan, "Constitutional Restrictions on the Power of Government," in The Theory of Public Choice - II, Buchanan and Tollison (eds.), University of Michigan Press (1984).

of Presidents and Congresses devised accounting tricks to evade the amendment. Surely a Congress, which in 1987 achieved a temporary budget reduction by requiring the Pentagon to postpone its payday from the day before to the day after the beginning of the fiscal year, would not cavil at inventing imaginative amendment-busting devices.

Second, to the extent that the accounting tricks were not sufficient and the amendment did begin to bite, a succession of Presidents and Congresses would be tempted to substitute regulation for budget programs. One can imagine a whole series of measures that transfer federal budget programs to the business sector, mandating various business outlays for social programs under detailed government regulation: Medicaid, unemployment compensation, provision of day care, support for local welfare programs, and so on down the list. Give me a roomful of ex OMB, CBO, and Congressional budget staff members, and in a month -- much less a generation -- I will tell you how to transfer a hefty part of the civilian budget to the backs of business firms, guided by detailed governmental regulation. From being one of the least regulated economies in the industrial world the United State could gradually become the most regulated.

Third, while I am no Constitutional lawyer I think it obvious either that the amendment will require substantial interpretation and enforcement from the Supreme Court, or -- if the Supreme Court refuses to become involved -- the amendment will soon have no meaning and no force. There are a host of questions that have to be answered. What are receipts? Would a federal requirement that business firms support local welfare plans be a tax subject to the requirements of

Constitutional majority vote? Given the amendment, business firms will bring cases to test the point. Is a repayable loan an outlay? Can the Congress declare certain government expense to be "off-budget," and if so, what are the criteria? Can trust-funds be set up which are outside the constraints of the amendment? Suppose the budget does run an unanticipated deficit in year 1 (due to a recession) and Congress cannot find a majority to cut spending or raise taxes so as to run an equivalent surplus -- as is required by S.J. RES 161. Who forces them to do so? These are only a few of the questions that some authoritative body -- and I presume it will be the Supreme Court -- is going to have to answer. The answer will importantly shape the way government is run.

I realize that the Supreme Court is usually reluctant to deal with the internal operations of the Legislative Branch, and I am told that there are large open questions as to who would have the standing to sue to enforce compliance with the amendment. But if, for any reason, the Supreme Court did not provide interpretative and enforcement authority the amendment would quickly become a dead letter.

In sum, Mr. Chairman, amending the Constitution to require a super majority to raise taxes or run a federal budget deficit is a very bad idea whose time has not come:

- o The country does not need it.
- o It could periodically cause major economic damage.
- o It would inevitably lead to a deterioration in the quality of government.

- It would provide a major incentive for the President and the Congress to increase the scope of government regulation.
- And unless it was interpreted and enforced by the Supreme Court -- thus thrusting the Court into the budget process -- it would be effectively ignored.

Senator DECONCINI. Mr. Schultze, thank you.
Mr. Ash.

STATEMENT OF ROY L. ASH

Mr. ASH. Thank you, Mr. Chairman. A balanced Federal budget over time is an objective I certainly share with you, Mr. Chairman, and the others who have spoken here this morning, and I particularly endorse the comments that have just been made.

How we achieve those ends is the question that we are wrestling with. In my view, unfortunately but necessarily, the "how" of the question cannot avoid what some would like to call mere technical details. Any proposed solution to the budget control process will be effective only to the degree that its operational details work in practice as intended.

Debate cannot be just at the big picture level; that is, are you for fiscal discipline and are you against horrendous deficits. If so, vote yes on this or any other bill and we will worry about the technical details later. Deploring deficits with colorful language just is not enough argument for what we have in front of us.

So let me pose, then, some of those mere technical details that I submit have to be faced, and have to be faced right up front, not in subsequent legislation, in considering the real-life workability of the current proposal, S.J. Res. 161. I am prepared also to provide my comments concerning the others. They have their own deficiencies in the same respects, in my view.

S.J. Res. 161 provides that Congress and the President shall agree on an estimate of total receipts for each year. What if they do not agree? They did not agree this year. Who does what specifically? That is just a taste of the technical details involved.

The resolution provides that any excess of expenditures over receipts in a year be repaid in the subsequent year. How is it repaid, by expenditure reductions, by tax increases? Well, the real question is who gets to decide and by what process do they decide. Repayments is a yet to be defined concept in Federal budgeting.

Even if such repayments could be agreed upon, is it good economic policy in the second year of a recession, say, to correct for the previous year's recession-caused deficit by requiring a budget surplus? You have already heard on that subject from two that have preceded me.

All provisions of the proposed amendment are waived in case a declaration of war is in effect. Historically, most of our needs for military build-up have preceded an actual war or, more importantly, have been made to avoid war.

This country has had only five declared wars since 1798, and 200 military engagements since then, some major, without a declaration. Under the proposed amendment, ironically, greater congressional support is required to incur deficits to finance preparation for war and war deterrents, as well as nondeclared war, than the mere majority vote necessary to declare war.

Do the proponents of this amendment really want to allow a 41-percent vote to control important elements of the conduct of foreign policy all under a constitutional requirement to achieve certain bookkeeping results?

I use the term "bookkeeping results" because the budget balancing required deals only with specified aspects of total Federal fiscal activities. How are Government loans, loan guarantees, revolving funds, trust funds, asset sales, leasing, offsetting receipts, and so forth, covered by this amendment? They all represent major escape routes if cash bookkeeping is pressed too hard.

While we are on those escape routes, we can all observe the present efforts to substitute regulatory spending, a question that you asked of the Governor preceding me, for Federal Government spending. Shall we take note of those, do anything about these alongside our bookkeeping controls on Federal Government spending?

And then referring back to a discussion that we have heard considerably of this morning, I think we should consider the experience of the States. Virtually every State, as Governor Sununu has said, by one constitutional form or another prohibits deficits, 49 out of 50.

But the experience of the States, vividly set out in a publication of the Cato Institute, certainly not a liberal organization, is one of across-the-board resort to off-budget entities to run up indebtedness in substantial amounts even while technically meeting their budget-balancing requirements.

One State governor, one who has testified not today but another time before this committee, testified then and proclaims widely that if the States can balance their budgets by constitutional requirement, why should not the Federal Government?

That same State has over 2,000 off-budget public entities that it has created, spending and borrowing well beyond any true budget balance. State experience is there to examine before we fall in the same trap. We just should not either pass it off or allow the argument to go that if States balance their budgets, why should not the Federal Government. The States' experience is the best of all.

Finally, the Constitution represents not just our aspirations; it is law. With the amendment in place, it is quite possible that any citizen could file suit asserting his own views of how Federal taxing or spending or even Federal accounting actions have violated the Constitution. It is very possible that courts would be obligated to deal with these.

If we believe that fiscal decisionmaking by two branches of Government is barely possible now, both may have to step back when the judicial branch exercises the last word that it would have.

While there are many more problems I could recite of the practical unworkability of the proposed amendment, none of these I have noted, nor the others I might recite, are just bothersome technical details to be worked out later. Practical workability is what it is all about. The proposed constitutional amendment just will not work in real life, except against the goals it is designed to achieve, nor, in my judgment, will any attempt to substitute arbitrary mechanistics for congressional wisdom and judgment.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Ash follows:]

STATEMENT OF ROY L. ASH ON THE PROPOSED BUDGET CONSTITUTIONAL AMENDMENT (S.J. RES. 161)

Federal fiscal discipline is an objective we all share. A balanced Federal Budget, over time, is an objective we all share. How we achieve those ends is the only question.

Unfortunately, but necessarily, the "how" of the question cannot avoid what some would like to call mere technical details. Any proposed solution to the budget control process will be effective only to the degree its operational details work in practice as intended.

As this Committee knows so well, over recent years there have been many attempts to design the working language for an effective constitutional amendment to require a balanced federal budget. The testimony I and others have given previously in opposition to such proposals - while in full agreement with the goal - has concentrated on the operational reasons such amendments wouldn't work, and in fact, be counterproductive. Debate can't be just at the "big picture" level, i.e., are you for or against fiscal discipline? If so, vote yes; we'll worry about the technical details later.

So let me pose some of the "mere technical details" that, I submit, can't be avoided in considering the real-life workability of the current proposal, S.J. RES.161. I'm prepared also to provide my views concerning S.J.R.11 and the others you're considering.

2.

The Resolution provides that "the Congress and the President shall agree on an estimate of total receipts" for each year. What if they don't? They didn't this year. Who does what? That's just a taste of the technical details involved.

The Resolution provides that any excess of expenditures over receipts in a year be repaid in the subsequent year. How is it repaid? By expenditure reductions? By tax increases? Who decides and how? "Repayments" is a yet to be defined concept in federal budgeting.

Even if such "repayments" could be agreed upon, is it good economic policy in the second year of a recession, say, - and two year recessions will come - to correct for the previous year's unplanned recession-caused deficit by requiring a budget surplus in the very year we're trying to work out of the recession?

All provisions of the proposed amendment are waived in case a declaration of war is in effect. Historically, most of our needs for military buildup have preceded an actual war or have been made to avoid war. Furthermore, this country has had only five declared wars since 1798 and 200 military engagements since then, some major, without such a declaration. Under the proposed amendment, greater Congressional support (60% of total membership) is required to incur deficits to finance preparation for war and war deterrence, as well as non-declared war, than the majority

3.

vote necessary to declare war. Do the proponents of this amendment really want to allow a 41% vote to control important elements of the conduct of foreign policy, all under a constitutional requirement to achieve certain bookkeeping results.

I say achieving "certain bookkeeping results" because the budget balancing required deals only with specific aspects of federal fiscal activities. How are government loans, loan guarantees, revolving funds, trust funds, asset sales, leasing, offsetting receipts, etc., covered by this amendment? How about zero coupon bonds on the revenue side? These all represent major "escape routes" if cash bookkeeping is pressed too hard.

While we're on "escape routes," we can all observe the present efforts to substitute regulatory spending for government spending. Shall we take note of these alongside our bookkeeping controls?

Then also, consider the experience of the states, virtually every one of which, by one constitutional form or another, prohibits deficits. That experience, vividly set out in a publication of the Cato Institute, is one of across-the-board resort to off budget entities and activities to run up indebtedness in substantial amounts even while technically meeting budget balance requirements. One state's governor proclaims widely , "If the states can balance their budgets by

4.

Constitutional requirement, why shouldn't the federal government." That same state has over 2,000 off budget public entities spending and borrowing well beyond true budget balance. State experience is there to examine before falling in the same trap.

Finally, the Constitution represents not just our aspirations, it is law. With the amendment in place, any citizen could file suit asserting his own view of how federal taxing or spending, or even accounting, actions have violated the Constitution. The courts would, of course, be obligated to deal with these. If we believe fiscal decision making by two branches of government is barely possible now, both may have to step back when the Judicial branch exercises the last word.

There are many more problems I could recite of the practical unworkability of the proposed amendment. None of these I've noted, as the others, are just bothersome technical details to be worked out later. Practical workability is what it's all about. The proposed Constitutional amendment just won't work in real life, except against the goals it is designed to achieve.

Senator DECONCINI. Mr. Ash, thank you.

I will be glad to yield to the Senator from Pennsylvania if he has an opening statement.

Senator SPECTER. I thank the Chairman and I commend Senator DeConcini for undertaking the arduous task of chairing this subcommittee in the absence of Senator Simon, who is otherwise engaged, as we all know.

I regret my late arrival, but I will be studying the record. This is a very important issue and I understand that the witnesses are discussing some practical limitations on implementation of a constitutional amendment for a balanced budget, and I shall be listening and studying the issue with interest.

It is obviously a very important matter. We have acted on it twice in the United States Senate in the last 7½ years. We passed it once, as I recall, 69 to 31, in the Senate; no action in the House. Then we failed to pass it by a single vote, 66 to 34.

That, along with line item veto and separating out the appropriations bills, are major issues for our consideration.

I want to join in thanking you men and the other witnesses for coming here today. We will pay close attention to your testimony. Thank you.

Senator DECONCINI. Thank you, Senator Specter.

Mr. Schultze, you know, you talk about a mistake, a grievous mistake that the American public made, the President made, and Congress made. I cannot help but look back at the statements of our elected officials, particularly Presidents, President Reagan promising a balanced budget, Jimmy Carter promising a balanced budget, obviously making a great appeal to people who wanted a balanced budget.

Then it seems to me your answer to that is, we just made a big mistake, because you cannot have a tax cut and a tremendous increase in defense expenditures. But honestly, would we not have been better off if President Carter had to submit a balanced budget?

Even if Congress had not adopted it, if President Reagan, after taking office and telling the American public he was going to balance the budget by 1983—and that slipped to 1984 and now we have seen that it has gone out of sight—would we not be better off if the President of the United States, whoever he or she might be, really had to submit a balanced budget?

Number one, if a mistake was going to be made, we know that the President was going to take a leadership role in saying we have got to have defense; we cannot do it with a tax cut. We have got to have a tax cut or we are going to have to cut defense or we are going to have to raise taxes and raise defense.

It just seems intellectually that you would be so much better off if Presidents could not do that. Now, I will get to Members of Congress, too, because we are certainly not exempt from making those statements or voting that way, but how do you respond to that?

Mr. SCHULTZE. Under normal circumstances, in periods of reasonable prosperity, the country would be better off if Presidents submitted a balanced budget, more or less.

Senator DECONCINI. Yes, just more or less.

Mr. SCHULTZE. Who cares whether it is plus or minus a little bit?

Senator DECONCINI. Right, just more or less.

Mr. SCHULTZE. Right. Most of them have in most periods of time, outside of recessions and emergencies. We have made mistakes, but you always have to ask yourself what is a worse mistake.

A worse mistake would be to lock into the Constitution an inevitably ambiguous formula which would require the President to submit a balanced budget in periods when it did not make any sense.

My reading of history is that apart from the 1981 mistake, the damage the country has suffered from having inappropriate budget deficits is relatively small. It was there. Jimmy Carter's last two budgets should have been smaller.

I am reminded of the story of one economist I know who, in thinking about these things, says you have to go back to the story of the king who had a contest between two jesters, and after having heard the first jester, he automatically gave the prize to the second.

I think when you look at Government, you find, yes, we do make mistakes and it would be better, as I said, in many cases to have had a balanced budget, but the errors, outside of 1981 to 1987, were not that large.

I believe we have learned a lesson. I believe, if, as and when we get out of this—and the constitutional amendment will not get us out of the current situation, but once we do get out of it, we will make mistakes again, but we will not for a long time make a mistake like that, whereas if we have it locked in the Constitution, we will be making a mistake.

Senator DECONCINI. Let me interrupt you. How could you conclude that we would not do it again? If we did it with a President who had campaigned for about 11 years trying to be President, who had taken a very fiscally-responsible approach as Governor of California, who sincerely wants a balanced budget—there is no question, I think, that Ronald Reagan wants it—how could you conclude that we would not do it again?

You get a President that has a history of being for fiscal responsibility, being for a balanced budget, and never once submitting one. The same thing goes for Jimmy Carter. He came from a State that had a balanced budget.

It made some difference because here you had an incumbent President who had Washington involvement and was conservative and should have been balancing the budget. I really question that we would not do it again.

Mr. SCHULTZE. Well, we never made anything like the mistake we did in 1981.

Senator DECONCINI. Not as severe, but it was a mistake to promise the people a balanced budget, and then never submit one.

Mr. SCHULTZE. Correct.

Senator DECONCINI. Even though it varies by $140 billion——

Mr. SCHULTZE. No, no. The largest deficit was 1979, I believe.

Senator DECONCINI. Yes, and in 1986 the deficit was——

Mr. SCHULTZE. $220 billion in 1986.

Senator DECONCINI. All right, 220, so it varied $60-some billion between Carter's. The point is still there.

Mr. SCHULTZE. No, no. Again, let me go back to the proposition. We have made mistakes. We have had occasionally deficits which were too large, correct. The size of those errors was relatively small.

In order to avoid those kinds of mistakes, the impact of a constitutional amendment over a period of generations on the quality of government and the impact on our economy in the occasions we do have a recession would far outweigh the good we would get from it.

So, yes, majoritarian voting in the Congress produces a lot of imperfect results. It gives us too much Government regulation, for example, but I would not want to put into the Constitution something prohibiting that either.

Senator DECONCINI. How do you respond to the horrendous burden that the deficit has brought about on the interest payments? The Federal Government spent $190 billion on interest payments on debt in 1986. The States spent $17 billion, which represents 3.7 percent of the total State revenues. The Federal Government spent 24.7 percent.

Mr. SCHULTZE. I agree, it is terrible, terrible.

Senator DECONCINI. Now, to me, that is a grievous mistake that ought to be corrected other than what you gentlemen offer, and that is that political discipline ought to be exercised.

I do not know that a constitutional amendment is the answer, but what do you offer that we could pinpoint or demonstrate might work, other than that we made a mistake and we have got to correct it? I am afraid we are not going to do it.

Mr. SCHULTZE. Again, I remind you that whatever you think about the constitutional amendment, it is never going to force anybody in this Congress to vote to get rid of the deficit.

It might stop them from having one if you did not have one to start with. It is not going to get them to vote to raise taxes. It is not going to——

Senator DECONCINI. Well, if it does not, are we not better off for the future—this Republic hopefully will last hundreds of years. If you say it might work in the future—and your conclusion is it will not work now, but it might work in the future. Are we not better off to have that "might" there?

Mr. SCHULTZE. Again, if you go through the list of what I believe would be the consequences for the Nation by way of, number one, bad economics in times of recession, very bad economics; number two, tremendous pressure on the President and the Congress over the years—remember, we are writing this for the ages—over the years to pervert the governmental process, and the Government has the money-making authority to make that stick—and, third, what it does by pushing the Supreme Court into the midst of the legislative branch—all three of those together, I would say I will take my risks on the other errors compared to that.

When I look ahead not for a decade but for generations, I think it is clear which way you would rather take the risks.

Senator DECONCINI. Mr. Ash, how do you respond to that? I just have great admiration for you gentlemen, but to throw an intellectual argument out that this deficit is an horrendous mistake and, you know, we will never make it again, and that is one of the reasons we should not have a constitutional amendment, notwith-

standing Mr. Schultze's economic reasons of the severity if we did have it—what do you think we are going to do in this country if we do not require a President to submit a balanced budget? Or if he does not want to, he has to explain why and then it would take a super-majority to create the deficit. It seems that that is some security, but I would appreciate your response.

Mr. ASH. I think I have a greater confidence that over a long run Presidents and the Congress will, in fact, find that point of balance in our fiscal affairs that will be appropriate for the country.

Senator DECONCINI. But we have not done that, have we?

Mr. ASH. I am a subscriber to the table 1 that Charlie Schultze produced, and I would make one further addition to it that makes its conclusion even more supportive of what he and I have said.

If you take general expenditures and take out of that interest, it being not a legislated program but an arbitrary or automatic consequence of programs, general expenditures have not gone up any time from 1951 to 1986.

In effect, what we presumably are attempting to wrestle with here is a runaway growth of general expenditures. The fact is——

Senator DECONCINI. Well, they have gone up. They have gone up, but not as to the share of the GNP.

Mr. ASH. Well, I am talking about share of GNP as our measure of our ability to pay, and obviously since 200 years, they have gone way up, but relative to our ability to pay, they have not.

What has gone up has been Social Security, including its Medicare component, and it seems to me a question before the House, if we are talking about fiscal affairs, is whether we, on the one hand, like Social Security or not. If we do, its benefits and its beneficiaries, let us pay for it and not let that cloud our view of what has been happening in total.

Senator DECONCINI. Yes, and I agree that that is what we should do, but we do not do it. You saw what happened when President Reagan submitted under Secretary Schweiker a reduction of the COLA's on Social Security.

Mr. ASH. Yes.

Senator DECONCINI. Nobody will ever do that again, and Congress will not even wink at it, hardly, or do anything to stir that up. Now, I am trying to find some procedure, as others are, that would really force us to do this.

Mr. SCHULTZE. Several things, Senator. What makes you think they would do it?

Senator DECONCINI. Well, I do not know. Intellectually, I cannot guarantee it. I just know that we have not done it, and I think that is why we are experiencing this crisis. Maybe we need to pass a statute which says, "if you do not vote for a balanced budget, it is a criminal offense." Maybe that is what we need in this country, something really severe to get the attention of the political leaders of this country, because it is not there.

What worries me so much about it, you see, is I thought maybe it was going to come; I really did. After Jimmy Carter got in and could not do it, I said that is too bad. Then I saw Ronald Reagan and I said, well, that guy is going to submit a balanced budget; he has got to. He has got so much at stake politically, he has got to.

What would Congress have done if President Reagan had submitted a balanced budget? We probably would not have balanced the budget, but we might have really reduced it.

Because you are experts in economics and I am not—and I appreciate that explanation of what this would do to us. Though I do not accept it, I appreciate that it is severe; it could be very horrendous.

My real problem with what you gentlemen say is that you don't provide any answers. What do we do, other than just saying that we are going to do it, that we have to have faith in the system? It just has not worked.

Mr. ASH. I will suggest what I think we should specifically do, Mr. Chairman. You have said what does it take to get the political pressure to move in the direction it should. I say it takes a knowledgeable public.

We have been misleading the American public as to the cause of the deficit, what the possible solutions are. So long as the public out there believes that it is waste, fraud and abuse, or believes all of the things we have misled them to believe, like combining Social Security within the total and saying it is all bad—somebody should wrestle with and take directly to the public the real facts.

I think this public, when they know the real facts, will support the politicians, whether it be the Congress or the President. But we have been misleading our public as to what our fiscal condition is.

Senator DECONCINI. I agree.

Mr. ASH. This democracy works when a public first understands what is up and, second, has some sense—I am convinced they have some sense of the right things to do when they know what the right problem is. I think that is what we need to do.

Senator DECONCINI. Yes, and I agree with you that the public needs to know. One of the most persuasive arguments I heard were from the chairman of this subcommittee, who made the arguments that you gentlemen have made when he was in the House of Representatives.

Since then he says, "you know, I have changed my mind; we cannot do it." To me, that is a convert, and converts often are the most zealous and the most convincing, in my judgment. When you see Senator Simon come to that conclusion, a thoughtful legislator who is not interested in constitutionalizing everything that he disagrees with or agrees with, for that matter, someone who is very careful and has the experience he has who comes from the position that you have argued—and I have read some of his statements in opposition to the constitutional amendment—he is a big enough man to come to the conclusion, and a great enough leader, to say, you know, we have got to do something. Maybe this will not work, but, by God, we have got to try something new.

The trouble I have with those who oppose this is that they are simply suggesting that we do what we have been doing, but it has not worked. I do not know what is going to make it work. An educated public? How do you educate them? A President that is not going to lead the public astray? Legislators who are really going to vote to raise taxes or reduce expenditures? I just do not see it there; I wish I did.

I wish I had the faith that you gentlemen have that this Democracy is going to take care of this.

Mr. SCHULTZE. Well, Senator, if we had had over the years periodic bouts of this kind of problem, I do not know quite what I would do. I would be a lot more sympathetic. We have not, we have not.

We had, in 200-and-some years, one really major bout—that does not mean we did not make mistakes before—one really major bout. I happen to believe that that was a unique concatenation of events. We got dumped on us the idiocy of supply side economics, which was supposed to make all this work, and for a short period of time people believed it.

Everybody believed—I do not mean everybody, but an awful lot of people believed it. We have a very popular President who believes that next to nuclear war, the worst thing that could happen in the country is a tax increase, and I do not think you are going to solve this problem without some tax increase.

The President is very popular, very sincere about his views, I think very wrong, but very popular. Conceivably, we could get a concatenation of events which repealed such a mistake in the future, but I doubt it very seriously.

Let me give you an analogy. I happen to think, and there is a lot of disagreement on this, of course, that Vietnam was a terrible mistake, I think a much bigger mistake costing much more tragedy than this terrible budget deficit will. But I would not try to write into the Constitution a way around the Vietnam war.

And I might remind you that under the Constitution Congress is supposed to declare war, and yet we have had what any reasonable person would call an awful lot of wars despite that fact.

So, I would argue with you, A, the recent deficit experience is a very unique event. Conceivably, it could happen again, but I do not want to write into the Constitution something to prevent it, which will do other kinds of damage that will be even worse.

And, B, I cannot imagine how, without a heavy hand from the Supreme Court, this would not shortly become meaningless.

Senator DECONCINI. You do not think we are going to have another popular President who is going to promise a balanced budget and yet never submit one? While telling the public that this big deficit is the worst thing we can ever have President Reagan has just gone ahead and submitted the biggest deficit ever. He tells the public that we have got to balance the budget, we have got to pass a constitutional amendment that will force the President and the guys and gals up there in the Congress to do what they are supposed to do? You do not think that will ever happen again?

Mr. SCHULTZE. The chances of a President doing that and the Congress going along with a $50 billion budget deficit, yes, sure, and that is small potatoes. With a $200 billion deficit, which 10 years from now will really be a $300 billion deficit in terms of the size of the GNP—will that happen?

Well, you know, I will not bet you a hundred to nothing, but I will bet you about 95 to 5.

Senator DECONCINI. I will take your bet. We will both be around. [Laughter.]

Mr. SCHULTZE. I hope I am around.

Senator DECONCINI. I hope I am, too. Well, gentlemen, thank you. I appreciate your time on this effort because it is something

that I continually wrestle with. I wish I had another solution because so far we have not been able to pass a constitutional amendment because of some very strong arguments, special interest or otherwise, and intellectual. At least the House would not go along with it.

If I had another solution, maybe, like I said, a criminal statute if you vote for deficit dollars, I would consider it.

Thank you very much; we appreciate it.

I would like the record to have Senator Humphrey's statement submitted here, without objection.

[The prepared statement of Senator Humphrey follows:]

STATEMENT OF SENATOR GORDON J. HUMPHREY
SENATE JUDICIARY COMMITTEE
SUBCOMMITTEE ON THE CONSTITUTION

HEARINGS ON
BALANCED BUDGET AMENDMENT

MR. CHAIRMAN, FIRST, LET ME SAY THAT I REGRET I WAS NOT ABLE TO BE HERE IN PERSON TO WELCOME THE DISTINGUISHED GOVERNOR OF MY STATE, THE HONORABLE JOHN SUNUNU. THE GOVERNOR KNOWS FIRST HAND WHAT FISCAL RESPONSIBILITY MEANS. THE SUBCOMMITTEE WILL SURELY BENEFIT FROM HIS VIEWS.

I AM PLEASED THAT THE SUBCOMMITTEE ON THE CONSTITUTION IS MOVING FORWARD ON THE SEVERAL PROPOSALS FOR A BALANCED BUDGET AMENDMENT. I HOPE THAT THIS IS THE FIRST STEP TOWARD ADOPTION OF A RESOLUTION PROPOSING AN AMENDMENT DURING THIS CONGRESS.

A RECENT CBS-NEW YORK TIMES POLL INDICATES THAT 75% OF AMERICANS SUPPORT AN AMENDMENT TO THE CONSTITUTION TO REQUIRE THE FEDERAL GOVERNMENT TO BALANCE ITS BUDGET. THIS IS THE LATEST OF MANY POLLS REFLECTING THE OVERWHELMING DESIRE OF THE AMERICAN PEOPLE TO IMPOSE FISCAL RESPONSIBILITY ON THE FEDERAL GOVERNMENT.

WHILE THE CONGRESS HAS BEEN IGNORING THE WILL OF THE PEOPLE, CITIZENS AND THE STATES HAVE BEEN PURSUING THE OTHER AVAILABLE CONSTITUTIONAL DEVISE TO SECURE AN AMENDMENT. TO DATE, THIRTY-TWO STATES HAVE ADOPTED RESOLUTIONS CALLING FOR

A CONSTITUTIONAL CONVENTION TO CONSIDER A BALANCED BUDGET AMENDMENT. IF TWO MORE STATES ADOPT SIMILAR RESOLUTIONS, ARTICLE V OF THE CONSTITUTION REQUIRES THE CONGRESS TO CALL A CONVENTION TO PROPOSE AMENDMENTS. THE PRESSURE IS BUILDING IN THE COUNTRY. CONGRESS SHOULD ACT NOW BEFORE ACTION IS FORCED BY THE STATES.

THE BEST TESTIMONY FOR A BALANCED BUDGET AMENDMENT IS THE BEHAVIOR OF THE CONGRESS. THE REFUSAL OF CONGRESS TO CONTROL THE GROWTH OF FEDERAL SPENDING IS THE ROOT CAUSE OF THE FEDERAL DEFICIT. THIS PAST DECEMBER, FOR INSTANCE, CONGRESS VOTED TO RAISE SPENDING BY MORE THAN 4%. THE FACT IS, FEDERAL SPENDING HAS INCREASED FOR EACH OF THE PAST 23 YEARS. WHO KNOWS WHAT SORTS OF INCREASES THE FUTURE HOLDS? WITH THE PROTECTION OF A BALANCED BUDGET AMENDMENT, CONGRESS WOULD ONLY BE ABLE TO SPEND AS MUCH AS IT IS WILLING TO TAKE FROM THE AMERICAN PEOPLE IN THE FORM OF TAXES. AND THE PEOPLE ARE FAST APPROACHING THEIR LIMITS IN TERMS OF HOW MUCH TAXATION THEY ARE WILLING TO TOLERATE.

THERE ARE SEVERAL PROPOSED VERSIONS OF THE BALANCED BUDGET AMENDMENT BEFORE THE COMMITTEE. SENATE RESOLUTIONS 3, 4, 11 AND 161 ARE AMONG THE PENDING PROPOSALS WHICH HAVE MERIT. EACH OF THESE VERSIONS HAS ITS STRONG POINTS. FOR EXAMPLE, THE TAX LIMITATION PROVISIONS OF S.J.R. 3 AND S.J.R. 4, AS WELL AS THE SUPER-MAJORITY REQUIREMENT FOR RAISING THE DEBT CEILING CONTAINED IN S.J.R. 4 AND S.J.R. 161, ARE

IMPORTANT COMPONENTS WHICH WARRANT FAVORABLE CONSIDERATION. IN ADDITION, ALL PROPOSALS WHICH HAVE BEEN ACTED UPON IN THE PAST, AND THOSE WHICH ARE NOW UNDER CONSIDERATION, REQUIRE A SUPER MAJORITY IN ORDER TO RUN A DEFICIT.

SINCE 1961, THE FEDERAL GOVERNMENT HAS BEEN IN THE BLACK JUST ONE TIME - IN 1969, A YEAR IN WHICH WE SPENT LESS THAN $200 BILLION. FURTHERMORE, SINCE 1931, THE FEDERAL GOVERNMENT HAS RUN A DEFICIT EVERY YEAR BUT EIGHT - THAT'S FIFTY YEARS OUT OF THE LAST FIFTY-EIGHT, OR 86%. WE ARE IN THE MIDST OF A STRING OF SOON-TO-BE MORE THAN TWENTY STRAIGHT YEARS OF BUDGET DEFICITS. THE ONLY WAY THE CONGRESS WILL HAVE THE DISCIPLINE TO ELIMINATE THE DEFICIT IS TO HAVE SUCH DISCIPLINE IMPOSED UPON CONGRESS BY THE CONSTITUTION.

EVERYONE IS FOR A BALANCED BUDGET. THE QUESTION IS, HOW DO WE GET THERE? WELL, STATUTORY SCHEMES HAVE PROVEN INEFFECTIVE. HOW MANY PEOPLE REMEMBER THE BYRD AMENDMENT? THIS AMENDMENT, OFFERED BY SENATOR HARRY F. BYRD AND ENACTED INTO LAW IN 1978, MANDATED A BALANCED BUDGET BEGINNING IN FISCAL YEAR 1981. WAS THE BUDGET BALANCED IN FY81? OF COURSE NOT - THE DEFICIT WAS ALMOST $58 BILLION.

WE HAVE SEEN SIMILAR EROSION IN THE MOST RECENT STATUTORY ATTEMPT TO MANDATE A BALANCED BUDGET. THE GRAMM-RUDMAN-HOLLINGS LAW, ENACTED IN 1985, WOULD HAVE REQUIRED A BALANCED BUDGET BY FISCAL YEAR 1991. LAST YEAR,

WHEN CONGRESS WAS GOING TO FEEL THE CRUNCH, DID WE SWALLOW THE MEDICINE WHICH WE HAD PRESCRIBED LESS THAN TWO YEARS EARLIER? OF COURSE NOT. WE CHANGED THE TARGETS AND PUT OFF THE TASK OF BALANCING THE BUDGET FOR ANOTHER TWO YEARS. IT IS PROBABLY A SAFE BET THAT AT SOME POINT IN THE FUTURE, WE WILL BE ASKED TO EXTEND THE TARGETS FURTHER.

THUS, WE HAVE PROVEN TIME AND TIME AGAIN THAT WE ARE INCAPABLE OF FOLLOWING THE LAWS THAT WE PASS. SOMETIMES, WE JUST OUTRIGHT IGNORE THEM AS WAS THE CASE WITH THE BYRD AMENDMENT. BUT WE CANNOT IGNORE THE CONSTITUTION OF THE UNITED STATES. AND THE ONLY WAY WE ARE GOING TO GET TO A BALANCED BUDGET IS IF IT IS REQUIRED BY THE CONSTITUTION.

ENACTMENT OF A BALANCED BUDGET AMENDMENT IS THE MOST CERTAIN AND DIRECT MEANS OF ACHIEVING NECESSARY BUDGET REFORM. ANOTHER MAJOR STEP IS ALLOWING THE PRESIDENT LINE-ITEM VETO AUTHORITY. FORTY-THREE STATE GOVERNORS NOW HAVE THIS AUTHORITY, AND PRESIDENTS SINCE ULYSSES S. GRANT HAVE SOUGHT THE LINE-ITEM VETO AS A TOOL TO CHECK WASTEFUL SPENDING.

A LINE-ITEM VETO WILL HELP CORRECT THE CLEAR "IMBALANCE OF POWER" THAT NOW EXISTS BETWEEN THE LEGISLATIVE AND EXECUTIVE BRANCHES ON BUDGETARY MATTERS. THE CONTEMPORARY PRACTICE OF INCLUDING HUNDREDS OF SEPARATE PROJECTS IN A SINGLE APPROPRIATION BILL OR CONTINUING RESOLUTION HAS EFFECTIVELY

NULLIFIED THE PRESIDENT'S CONSTITUTIONAL VETO POWER AS A MEANS OF CHECKING WASTEFUL SPENDING. SO AS WE CONSIDER THE NEED FOR ENACTING A BALANCED BUDGET AMENDMENT, I HOPE WE WILL ALSO CONSIDER THE RELATED BENEFITS OF LINE-ITEM-VETO IN OUR EFFORTS TO CHECK RUNAWAY FEDERAL SPENDING.

THE TIME HAS COME TO MEET THE WILL OF THE PEOPLE. I HOPE THAT THIS HEARING IS THE FIRST STEP TOWARD THIS GOAL. I HOPE THAT THE FULL COMMITTEE WILL REPORT OUT A BALANCED BUDGET AMENDMENT PROMPTLY AND THAT THE MAJORITY LEADER WILL SCHEDULE FLOOR ACTION.

Senator DECONCINI. We will leave the record open for 2 weeks for anybody who wants to submit statements.

Thank you very much. The subcommittee will recess subject to the call of the Chairman.

[Whereupon, at 11:13 a.m., the subcommittee was adjourned.]

21-280 (100)